

**Meeting Date: Thursday 10 February 2022**  
**Location: Meeting held remotely**  
**Time: 5.00pm**

*City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.*

**NOTICE OF BUSINESS**

**Item 1**

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**DECLARATIONS OF INTEREST**

**DEVELOPMENT APPLICATION**

- |          |   |          |
|----------|---|----------|
| <b>1</b> | 19 Wattle Street West Ryde - LDA2021/0228<br>Demolition of existing dwelling and structures and construction of a four (4) storey residential apartment building comprising six (6) units and basement car parking for eight (8) vehicles ..... | <b>3</b> |
|----------|---|----------|



## **DEVELOPMENT APPLICATIONS**

### **1 19 Wattle Street West Ryde - LDA2021/0228**

**Demolition of existing dwelling and structures and construction of a four (4) storey residential apartment building comprising six (6) units and basement car parking for eight (8) vehicles.**

**Report prepared by:** Senior Town Planner

**Report approved by:** Senior Coordinator - Development Assessment; Manager - Development Assessment; Director - City Planning and Environment

**File Number:** GRP/09/6/12/1/2 - BP22/63

### **City of Ryde Local Planning Panel Report**

<b>DA Number</b>	<b>LDA2021/0228</b>
<b>Site Address &amp; Ward</b>	19 Wattle Street West Ryde West Ward
<b>Zoning</b>	R4 - High Density Residential
<b>Proposal (as amended)</b>	Demolition of existing dwelling and structures and construction of a four (4) storey residential apartment building comprising six (6) apartments and basement car parking for eight (8) cars.
<b>Property Owner</b>	Mr Joseph Elias & Ms Samira Elias
<b>Applicant</b>	Architectural Design Studio (NSW) Pty Ltd
<b>Report Author</b>	Sandra McCarry – Senior Town Planner
<b>Lodgement Date</b>	13 July 2021
<b>Notification - No. of Submissions</b>	<i>1<sup>st</sup> Notification:</i> Twelve (12) submissions received, all objecting to the proposed development. <i>2<sup>nd</sup> Notification:</i> 3 submissions received.

**ITEM 1 (continued)**

<b>Cost of Works</b>	\$2,242,278.00
<b>Reason for Referral to LPP</b>	<ul style="list-style-type: none"> <li>• Sensitive Development – Development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies. <i>Schedule 1, Part 4 of Local Planning Panels Direction</i></li> <li>• Contentious Development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i></li> </ul>
<b>Recommendation</b>	Approval
<b>Attachments</b>	Attachment 1 – Conditions of consent Attachment 2 – Clause 4.6 Variation Request Attachment 3 – Architectural Plans (as amended)

**1. Executive Summary**

The following report is an assessment of a development application under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on land at 19 Wattle Street, West Ryde and legally described as Lot 7 DP 35329.

The subject development application (LDA2021/228) was lodged on 13 July 2021 and seeks consent for the demolition of the existing building and the construction of a residential apartment building containing six (6) residential units (2 x 1 bedroom units, 2 x 2 bedroom units and 2 x 3 bedroom units) with basement car parking for eight (8) vehicles.

In accordance with the Environmental Planning and Assessment Act 1979, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it constitutes sensitive development to which *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* applies. This application is also reported as being contentious development. The DA has received in excess of ten (10) submissions objecting to the development over two public notification periods.

During the 1<sup>st</sup> round of notification period (13 July 2021 until 3 August 2021) Council received twelve (12) submissions raising concerns about the proposed development. Issues raised in the submissions are as follows:

- Number of storeys, should be reduced to 3 storeys which is more in keeping with the area
- Insufficient car parking

**ITEM 1 (continued)**

- Location of the bin area
- Visual impact, large and bulk
- Loss of privacy, sunlight and view
- Vibration and noise
- Excavation and damage to foundation
- No bicycle storage

The proposal generally complies with Council's planning controls with the exception of the building height, building separation and setbacks. These non-compliances are considered to be acceptable in the context of the development as discussed in the body of the report. The development fully complies with the floor space ratio and provides adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties.

The applicant has submitted a Clause 4.6 request to vary Clause 4.3(2) Height of Building, as the proposal exceeds the allowable building height of 15.5m. The maximum building height is 16.34m, equating to a 5.4% variation to the standard. The non-compliant elements of the building are the lift overrun, stairs to the roof and a small section of the shade cloth.

On 3 August 2021, Council wrote to the applicant advising that Council's Drainage Team, Waste Officer and Traffic Engineer have requested further information, which include hydraulic model to be submitted, amendment to the floor level, driveway ramp and information about waste storage. Council also advised that as the site is only 13.4m wide with an area of 478m<sup>2</sup>, it is constrained for a residential apartment building development. Therefore, to achieve a reasonable response to the context, consideration should be given to consider amalgamation with the adjoining corner lot at 17 Wattle Street. Concerns were also raised about proposed setbacks to the adjoining property – 17 Wattle Street.

Additional information and amended plans were submitted to address the above concerns. The applicant has also submitted copy of emails to the owner of 17 Wattle Street offering to purchase the site. The owner of 17 Wattle Street advised that they do not deal directly with the public and would go through the normal real estate channel if the property were to be sold. The principal of site isolation is discussed further in the report.

An Urban Design Review Panel (UDRP) meeting was held on 2 September 2021 and the written comments from the UDRP were provided on 13 September 2021. Amended plans addressing the UDRP comments were submitted to Council on 11 October 2021. Full discussion of the UDRP comments and the response by the applicant is discussed in detail further in the report.

The amended plans were renotified from 11 October 2021 until 1 November 2021. Three (3) submissions were received generally raising the same concerns as above plus objecting to the shifting of the building.

## ITEM 1 (continued)

The proposal also requires the removal of two trees on the adjoining sites, 21 & 17 Wattle Street as the excavation for the basement will impact on these two trees – a Chinese Pistachio on 21 Wattle Street and a Flowering Tree (Exempt Tree as less than 5m high) on 17 Wattle Street. Both of these trees are adjacent to the common boundaries of the subject site and are in “Fair” condition. Council required the owner to obtain permission for the removal of these trees and to provide a replacement tree on the respective sites. Since the initial request to provide owner’s consent, the tree at 17 Wattle Street has been removed and owners consent for removal of the tree at 21 Wattle Street has been received.

The assessment of the amended application against the relevant planning framework, and consideration of various design matters by Council’s Technical Departments have not identified any fundamental issues of concern. The proposal has been amended in accordance with the Urban Design Review Panel (UDRP) and Council’s recommendations. Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act*, it is recommended Development Application No. LDA2021/0288 be granted subject to conditions of consent.

## 2. The Site and Locality



Figure 1: Aerial photo of subject site hatched in orange.

The subject site is legally described as Lot 7, DP 35329 and is known as 19 Wattle Street, West Ryde. The site is rectangular, having a frontage of 13.41 m to Wattle Street and a depth of 35.66m. The site has a total area of 478.2m<sup>2</sup> and is located on



**ITEM 1 (continued)**

the northern side of Wattle Street in West Ryde, to the east of the West Ryde Town Centre.

The site comprises a single allotment and is located on the northern side of Wattle Street, between Anzac Avenue and Forster Street. Existing buildings on the site include a single storey dwelling house, a detached brick garage and a small metal shed (**Figure 2**). The site is relatively level, with a slight fall from the rear towards the Wattle Street frontage.

The site is bounded by a two storey residential flat building to the southeast (No. 17 Wattle Street, **Figure 6**), owned by NSW Land and Housing Corporation. A large three storey residential flat building (No. 21 Wattle Street, **Figure 3**) is to the northwest and also owned by NSW Land and Housing Corporation. To the rear (north) is a long and narrow three storey residential flat building at No. 89 Anzac Avenue, **Figure 5**.

Further east and south-east there are single and two storey dwelling houses, interspersed with a number of multi-dwelling housing developments and residential flat buildings. As such, the surrounding residential built form is a somewhat eclectic mix of housing types and densities. Directly opposite the site is Anzac Park, a large public open space bounded by Wattle Street, Anzac Avenue, Herbert Street and Ryedale Lane.



**Figure 2: View of the subject site - 19 Wattle Street, West Ryde.**

**ITEM 1 (continued)**



**Figure 3: View towards the site looking north-west from the intersection of Anzac Ave and Wattle Street.**



**Figure 4: View looking east towards the site across Wattle Street showing the relationship of the existing residential flat buildings surrounding the site.**



**ITEM 1 (continued)**



**Figure 5: View looking to the north west along Anzac Ave, north east of the site. The property at 89 Anzac Avenue adjoins the rear boundary of the subject site.**



**Figure 6: 17 Wattle Street - a 2 storey RFB owned by the Department of Housing. Front of building faces Anzac Ave.**

## ITEM 1 (continued)

### 3. The Proposal (as amended)

The proposal seeks to demolish the existing dwelling house and ancillary structures and construct a four (4) storey residential flat building containing six (6) residential apartments. Eight (8) on-site parking spaces are proposed in a single basement level. Communal open space is provided at the rooftop level.

Vehicular access is via Wattle Street. Pedestrian access is also from Wattle Street via a separate pedestrian pathway.

The development comprises six (6) residential apartments across four (4) levels, with 1 x 3 bedroom apartment on the ground floor, a 1 x 1 bedroom and 1 x 2 bedroom on the first and second floors and 1 x 3 bedroom on the fourth level. Communal open space is provided on the roof area.

The proposal includes a 3.7m wide driveway adjacent to the north western side boundary providing access to the single basement level. The proposal includes ramped pedestrian access located at the front. The development as presented to Wattle Street is shown in **Figure 7 & 8**.

Landscaping works (**Figure 9**) are provided along the front, side boundaries and rear yard area with the communal open space proposed on the roof terrace area.



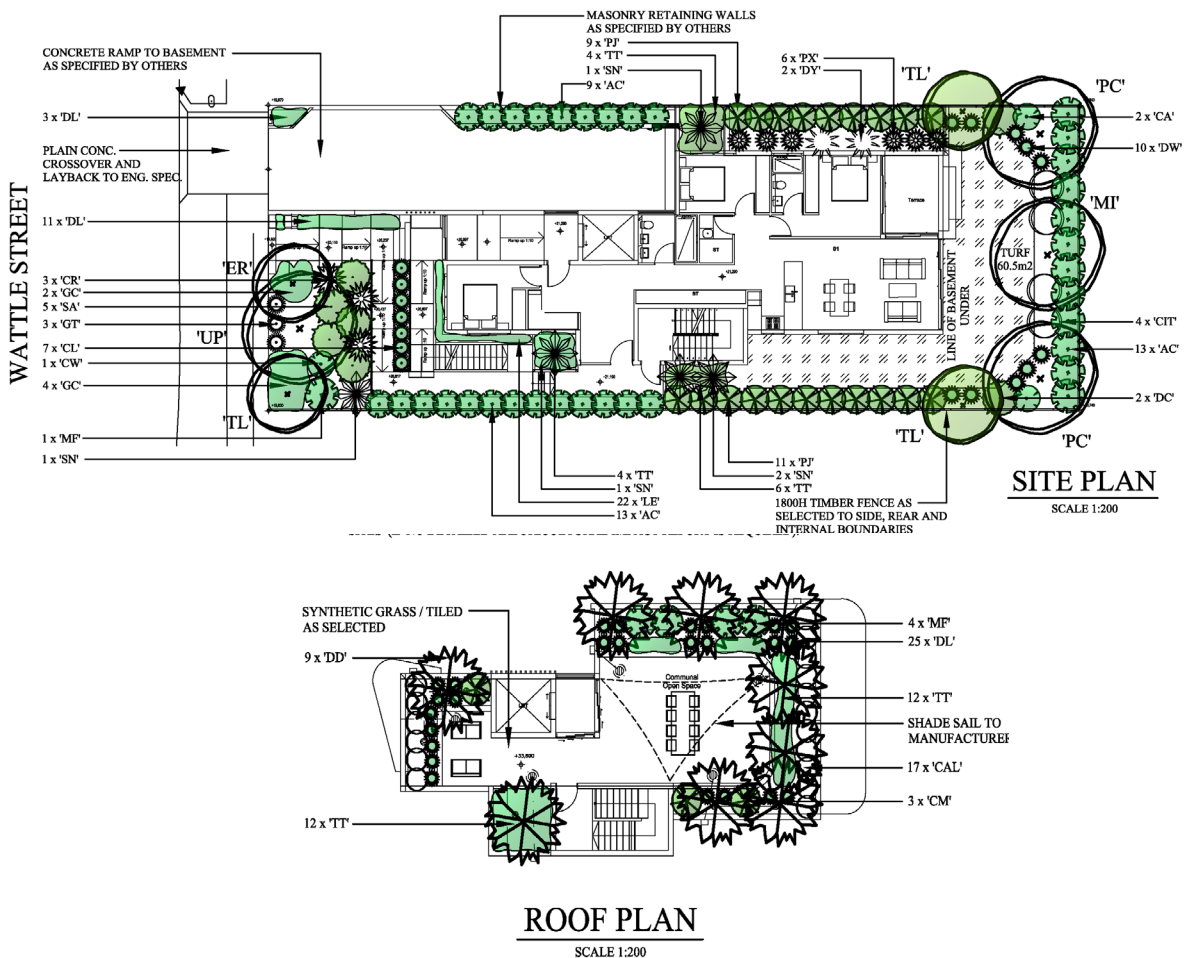
**Figure 7: Photomontage of the development as viewed from Wattle Street.**



**ITEM 1 (continued)**



**Figure 8: Photomontage as view from adjoining site 21 Wattle Street, looking west. Note: The photomontage is not a true illustration of 21 Wattle Street as adjacent to the common boundary is hard paved area for car parking and vehicular access.**



**Figure 9: Landscaping plan of the ground floor and roof top terrace area.**

## ITEM 1 (continued)

### 4. Background

#### 4.1 Site History

18 October 2018	An Urban Design Review Panel (UDRP) and pre-lodgement meeting was held to discuss an initial proposal for the site (PRL2018/17). The UDRP raised concerns over a number of issues particularly the design constraints associated with the very narrow site. The Panel considered that to achieve a reasonable response to the context both in terms of scale, street setback and relationship to adjoining developments the applicant will need to amalgamate with the corner lot (17 Wattle Street).
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#### 4.2 Application History

13 July 2021	Development Application LDA2021/0228 was lodged for the demolition of existing structures and construction of a 4 storey residential flat building containing 7 residential units and basement car parking for 8 vehicles.
13 July - 3 August 2021	The DA was referred to the relevant sections of Council and notified to surrounding properties. In response, twelve (12) submissions were received; all objecting to the proposed development.
3 August 2021	<p>A Stop the Clock letter (STC) was sent to the Applicant. Council identified the following issues with the proposal:</p> <ul style="list-style-type: none"> <li>○ Council's preference is for the amalgamation of the subject site with the adjoining site at 17 Wattle Street. No evidence was submitted to demonstrate that attempts were made to amalgamate within 17 Wattle Street. It is also noted that any redevelopment of the subject site as proposed may leave the adjoining land at 17 Wattle Street isolated with similar redevelopment constraints. Therefore, negotiations for amalgamation with the adjoining property to the north should be pursued.</li> <li>○ Revised Clause 4.6 to be submitted in respect of the height of the development.</li> <li>○ Electronic copies of the Hydraulic flood modelling are to be submitted.</li> <li>○ To minimise property damage, the following finished surface levels must be attained for new parking areas;</li> </ul>



**ITEM 1 (continued)**

	<ul style="list-style-type: none"> <li>- <i>Security door control and any other access/opening to the basement car parking shall be above PMF level in each location.</i></li> <li>- <i>Parking ramp surrounding wall appears to have an opening. No basement openings below PMF level allowed.</i></li> <li>- <i>Ground floor FFL shall be raised 10mm.</i></li> <li>- <i>Fencing to be constructed in a manner that does not affect the flow of flood waters.</i></li> <li>o The internal ramp is inadequate to support two-way traffic flow. The width of the internal ramp needs to be widened to provide a minimum width of 5.5m.</li> <li>o Provide revised Waste Management Plan.</li> </ul>
2 September 2021	An Urban Design Review meeting was held between the applicant, Council staff and UDR Panel to discuss the proposal. A number of concerns were outlined by the Panel. Details of the comments are discussed further in the report. One of the issues was submission of details of attempts to amalgamate with the adjoining site – 17 Wattle Street.
7 September 2021	<p>The applicant sent to Council a copy of the email from Land and Housing Corporation advising the following:  <i>"Thank you for your enquiry dated 8<sup>th</sup> and 9<sup>th</sup> February 2021 with an offer to acquire a Land and Housing Corporation (LAHC) owned property.</i></p> <p><i>Government agencies are generally not in a position to directly negotiate with external parties. Accordingly, we are not able to deal with your offer. Your enquiry has prompted a review of properties at 17 Wattle Street, West Ryde.</i></p> <p><i>LAHC continually review the suitability of the properties it owns to ensure they meet the needs of the social housing system. If a LAHC property becomes available for sale, it will be marketed for sale and advertised on various public channels such as Real Estate website".</i></p> <p>Perusal of real estate websites did not show 17 Wattle Street as being on the market.</p> <p>The issue of site isolation principle is discussed further in the report.</p>
10 September 2021	Received comments from UDRP which was then forwarded to the applicant on the 13 <sup>th</sup> September 2021.

**ITEM 1 (continued)**

24 September 2021	Council's Landscape Architect requested further information with regard to the existing trees on site and on the adjoining properties. Council requested the applicant to obtain permission from the owners of 21 & 17 Wattle St to remove the trees that will be impacted on by excavation of the basement. This was subsequently provided by the applicant on 16 December 2021.
11 October 2021	Amended plans and documents received. The changes included: <ul style="list-style-type: none"> <li>• The building – The rear of the building has been moved to towards the north western boundary (21 Wattle Street) to assist in easing the relationship to the south eastern boundary (17 Wattle Street).</li> <li>• Apartment number been reduced from seven (7) to six (6) apartments as follows:             <ul style="list-style-type: none"> <li>. 2 x 1 bedroom</li> <li>. 2 x 2 bedroom</li> <li>. 2 x 3 bedroom</li> </ul> </li> <li>• The driveway has been shifted, setback 1m off the western boundary to provide a landscape buffer and a covered driveway.</li> <li>• The ground floor studio and two-bedroom apartment has been deleted and a new three-bedroom apartment introduced on the ground floor.</li> <li>• The pedestrian entry has been redesigned (platform lift removed and a set of ramps behind the deep soil area introduced) to create a more appealing entry which is integrated with landscape.</li> <li>• A private side entry direct from the street has been introduced for the ground floor apartment.</li> <li>• The roof terrace planters have been widened to mitigate overlooking to neighbouring properties.</li> <li>• The overall facade has been redesigned with respect to the visual impact of the planter and balustrade at the upper levels.</li> </ul>
11 October 2021	Amended plans referred to the relevant sections of Council and renotified until 1 November 2021. Three (3) submissions were received objecting to the proposal.
3 November 2021	Council's Development Engineer raised concerns about the one way driveway (vehicle waiting at the car entrance will block vehicle exiting the site through the ramp and requested a passing bay to be provided). In addition, further information was required with respect to the basement parking spaces No. 5 & 6 plus details of the car park entrance and allocation details of parking space 7 & 8. Amended ground floor plan provided showing a passing bay to address this issue.

**ITEM 1 (continued)**

	The submission of the amended documentation did not trigger renotification in accordance with the Ryde Community Participation Plan.
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**5. Planning Assessment****5.1 Environmental Planning and Assessment Act****Objects of EP&A Act**

Section 1.3 of the EP & A Act contains the following relevant objects:

**1.3 Objects of Act (cf previous s 5)**

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (g) to promote good design and amenity of the built environment,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The proposal achieves the objectives. The proposed development provides for an appropriate built form which is responsive to the site constraints and has been designed in response to the site's topography. The proposal is consistent with relevant Objects of the Act.

**5.2 State Environmental Planning Instruments****State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development**

This Policy aims to improve the design quality of residential flat development in NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'.

Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at the lodgment of the development application. This documentation has been provided and meets the lodgment requirement.

**ITEM 1 (continued)**

The application has been assessed by Council's Urban Design Review Panel and was considered to be acceptable and their comments are provided below:

Urban Design Review Panel

During the assessment phase of the application, a meeting was held between the Ryde Urban Design Review Panel (UDRP), the applicant and Council staff on 2 September 2021. The UDRP provided the following comments on the proposal's performance with regard to the SEPP 65 Design Quality Principles. A subsequent assessment comment has also been provided.


Design Quality Principle	UDRP and Assessing Officer Comments
<p><b>Context and Neighbourhood Character</b></p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><u>UDRP Comments</u></p> <p><i>The proposal is for a 4 storey residential apartment development. This is a narrow site positioned between a large apartment development to the west and an existing walk-up apartment building owned by the Land and Housing Corporation (LAHC) to the east.</i></p> <p><i>The Panel considers that the best outcome for this site and the remnant corner site would be amalgamation. In the absence of agreement from the Department to this course of action, the Panel is comfortable with considering development of this site on its own.</i></p> <p><i>To the west of the site, the neighbouring development's vehicle access and a parking area is adjacent to the site. The proposed building has been positioned with narrow side setbacks – 3m to the north-west (21 Wattle Street) and 1.7m to the south-east (17 Wattle Street).</i></p> <p><i>Given the proximity of the existing walkup apartments to the south east (17 Wattle Street) and the considerable distance to the apartments to the north west (21 Wattle Street, see <b>Figure 4</b> above) the Panel suggests that the rear part of the building, be shifted towards the western boundary to provide more 'breathing' space and landscape opportunity to the east.</i></p> <p><i>Care will need to be taken to ensure that the north western setback is appropriately landscaped to provide reasonable amenity to the new development and to assist in screening the extensive hard stand areas next door.</i></p> <p><i>Otherwise, the Panel considers the general positioning of the building to be reasonable given the site constraints. Further design development is needed in relation to the pedestrian access and location of the vehicle ramp on the side boundary and this is discussed under other principles.</i></p>



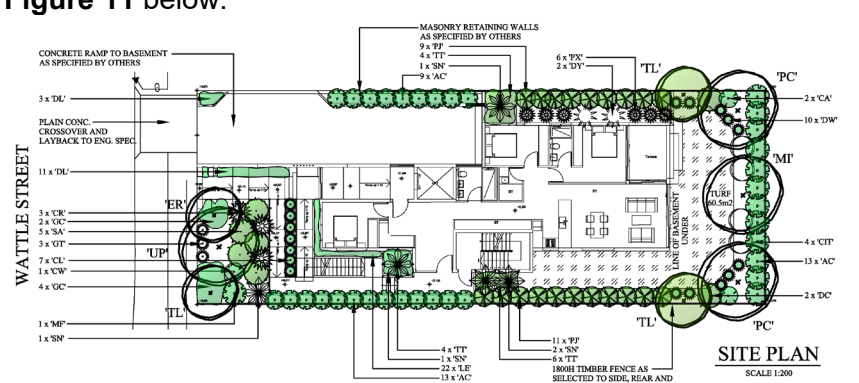
**ITEM 1 (continued)**

Design Quality Principle	UDRP and Assessing Officer Comments
	<p><i>The height of the scheme is supported despite the height noncompliance for the lift and fire stair access as its purpose is access to a rooftop communal open space for the residents.</i></p> <p><u>Planner's Comments:</u> The applicant has provided an email from Land and Housing Corporation (owner of 17 Wattle Street) advising that they were not able to deal with their request to acquire the site for amalgamation (see above under Application History).</p> <p>A perusal of real estate websites, 17 Wattle Street has not been advertised for sale. Accordingly, it is not possible to amalgamate and the development is considered on the subject site only.</p> <p>With regard to the setbacks, the proposal has been amended with the rear section of the building-built form shifted towards the north west boundary, where 21 Wattle Street has the larger setback, as per the Panel's recommendations. The rear section was original setback 3m from the common boundary with 21 Wattle Street and 1.7m to 2.77m from the south east (17 Wattle Street). As per the UDRP recommendation this rear section was shifted to have a reduced setback of 2m from 21 Wattle Street and a greater setback of 2m to 3.35m to 17 Wattle Street. The building separation between the subject site and 17 Wattle Street has increased, creating more space for landscaping and greater building separation.</p> <p>The driveway has been setback 1m off the north west boundary to provide landscaping opportunity and the ramp covered to further reduce its visual impact as per the Panel's recommendations, see <b>Figure 10</b> below.</p> <p>The proposal has been amended to provide a better interface with the adjoining sites with the proposal responding to the streetscape. The development is not considered to be out of context with the adjoining properties on either side which comprises of 2 and 3 storeys residential apartment buildings.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>

**ITEM 1 (continued)**

Design Quality Principle	UDRP and Assessing Officer Comments
	 <p><b>Figure 10: Photomontage of the development as viewed from 21 Wattle Street, ramp covered to reduce its visual impact.</b></p>
<p><b>Built Form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><u>UDRP Comments</u></p> <p><i>Shifting the proposal towards the north western side boundary in the order of perhaps 0.5 -1m would ease the relationship to the eastern apartment building on the corner. This could apply to only the rear portion of the development.</i></p> <p><i>A 6m separation has been provided to the rear and this is appropriate and meets the ADG. The Panel encourages and supports the use of this area as private open space for the apartment but ideally the extent of significant landscaping including trees and shrubs versus grass area should be increased.</i></p> <p><i>The arrangement of the vehicle entry and pedestrian entry is not ideal. The adjacent site provides little landscape to the side boundary to soften the impact and this proposal will exacerbate that impact with the nil setback of the ramp from the boundary.</i></p> <p><i>The Panel recommends the driveway is shifted approximately 1m away from the side boundary so that a landscaped area can be provided along the length of the ramp. This will soften the visual impact of the driveway.</i></p> <p><i>The ramp should also be covered to the maximum possible extent with landscaped planters (subject to provision of sufficient head height) to further reduce its visual impact and improve the amenity of any windows to units overlooking the ramp.</i></p> <p><i>The pedestrian entry is not ideal and is compromised by the impact of flood planning levels. The location immediately next to the ramp may create safety issues and the use of concrete walls to try and create separation creates poor visual outcomes for the street. The use of the platform lift within the front setback is also a poor visual and amenity solution.</i></p> <p><i>The Panel recommends that the grade change occurs close to or within the building envelope so that the entry to the building is at</i></p>

**ITEM 1 (continued)**

Design Quality Principle	UDRP and Assessing Officer Comments
	<p>street level. A ramp, stairs and/or platform lift can occur within the lobby space instead.</p> <p>An apartment is provided fronting the street. This Panel understands this unit is intended to be the accessible apartment. It could be possible to provide an accessible entry direct from the street for this apartment, through its own front gate as an alternative. This unit should have a direct street access in any event.</p> <p>Overall, the massing is supported however the elevational proportions of the building facing the front boundary are rather awkward and would benefit from further design development. This is discussed further under Aesthetics.</p> <p><u>Planner's Comments:</u> As mentioned above, the rear portion of the building-built form has been shifted towards the north-west boundary, resulting in a greater setback to the south-east property (17 Wattle Street).</p> <p>The new driveway arrangement has resulted in creating a 1 m wide landscape buffer towards the north west boundary, as shown in <b>Figure 11</b> below.</p>  <p><b>Figure 11: Proposed landscaping for the site, with perimeter landscaping around the site. The section of the driveway where there is no landscaping is the passing bay, required by Council's Traffic and Development Engineers.</b></p> <p>The amendments include a covered ramp/porch with hanging plant to the driveway to help soften the visual impact of the lengthy driveway. Access to this covered area is via Level 1 and residents can access this area. However, the applicant has stated that this area is not intended to be used by the residents as it will have overlooking impact to the adjoining property, 21 Wattle Street. <b>Condition 136</b> has been imposed stating that residents and visitors are not permitted to use this area and the access is for maintenance purposes only.</p> <p>The pedestrian entry has been redesigned (outdoor platform lift removed and a set of ramps behind the deep soil area introduced) to create a more appealing entry integrated with landscape.</p>

**ITEM 1 (continued)**

Design Quality Principle	UDRP and Assessing Officer Comments
	<p>A private side entry direct from the street has been introduced for the ground floor apartment.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p><b>Density</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><u>UDRP Comments</u>  <i>The proposal is compliant with the floor space ratio (FSR) and is supported subject to comments in this report.</i></p> <p><u>Planner's Comment:</u>            The amended proposal is compliant with the 1: 1 FSR, having a GFA of 477.8m<sup>2</sup>.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p><b>Sustainability</b></p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation &amp; sunlight for the amenity &amp; livability of residents &amp; passive thermal design for ventilation, heating &amp; cooling reducing reliance on technology &amp; operation costs.</p> <p>Other elements include recycling &amp; reuse of materials &amp; waste, use of sustainable materials &amp; deep soil zones for groundwater recharge and vegetation.</p>	<p><u>UDRP Comments</u>  <i>Sustainability was not discussed in detail, but the Panel encourages the exceedance of minimum statutory sustainability requirements.</i></p> <p><u>Planner's Comment:</u>            An amended BASIX certificate has been submitted and is compliant with the required targets.</p> <p>All the apartments are naturally cross ventilated and all of the apartments receive more than two hours of solar access.</p> <p>Deep soil areas are provided at the rear and the front of the property. A communal green roof will reduce the urban heat island effect along with reducing the heat and cooling requirements.</p> <p>The development (as amended) is considered to satisfy this Principle</p>



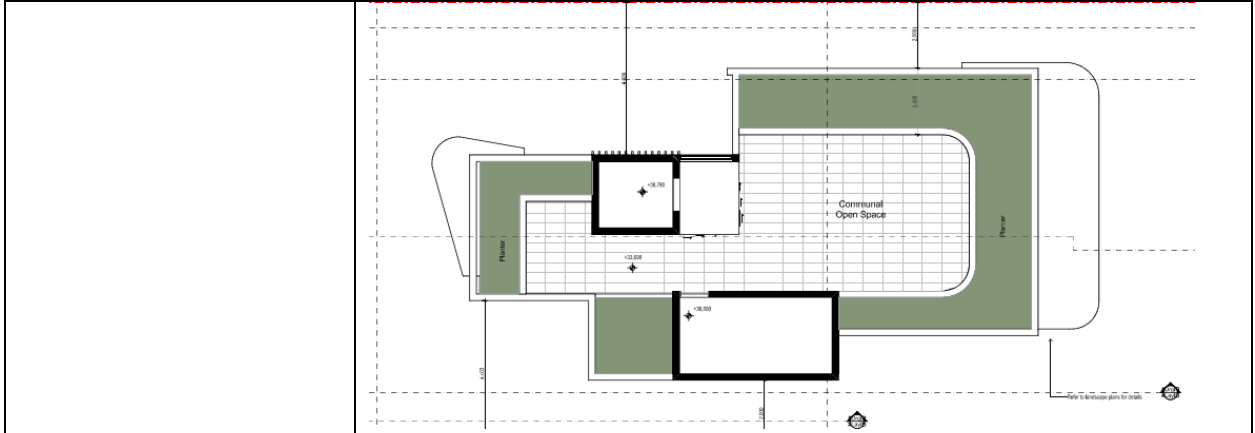
**ITEM 1 (continued)**

Design Quality Principle	UDRP and Assessing Officer Comments
<p><b>Landscape</b></p> <p>Good design  <input type="checkbox"/> recognizes that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</p>	<p><u>UDRP Comments</u></p> <p><i>The setback and arrangement of the building allows for deep soil to the front and rear of the site, which is supported. The basement is built to both side boundaries, which is not ideal and if possible, some setback should be provided. If not, the applicant should ensure the depth of raised planter is sufficient to sustain substantial plantings.</i></p> <p><i>A landscaped planter bed should be provided along the side boundary adjacent to the vehicle ramp.</i></p> <p><i>Increased landscape areas for trees and shrubs should be provided in the rear setback area to reduce the extent of grass.</i></p> <p><i>The program for the communal open space (COS) on the roof provides only 2 eating areas and one seating area. A more intimate division of the larger space may be appropriate to provide more opportunities for individual recreation. The extent of the shade sails seems questionable for shadowing of the facilities provided in summer.</i></p> <p><i>The depth of the planters needs to be sufficient to stop overlooking to the south east and north east boundaries. There is currently not sufficient information to determine this in the application.</i></p> <p><u>Planner's Comment:</u>  The basement has been amended to have the driveway setback 1m off the boundary to provide a landscaped planter bed along the side boundary adjacent to the vehicle ramp and the western boundary.</p> <p>Amended landscaping plan and planter details have been submitted and reviewed by Council's Landscape Architect who has provided conditions to provide amended landscape plans to provide additional soil mix depth in the planter box, further details of the turf on Levels 1 &amp; 3, <b>Condition 1(a)</b>.</p> <p>The COS has been divided into 2 areas, with one of the areas providing opportunities for individual/smaller recreation use. The shade sail have been extended over the large seating area and whilst there are seating areas, there are no additional facilities like cooking (BBQ), accordingly, <b>Condition 1(a)</b> has been imposed requiring cooking facilities being provided in the COS.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>

**ITEM 1 (continued)**

<b>Amenity</b>	<u>UDRP Comments</u>
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>The amenity of apartments in the scheme is positive and each unit has multiple aspects and outlooks. Reasonable private open space (POS) is provided for each apartment.</i></p> <p><i>The furniture layout in some of the plans is questionable and should be adjusted to demonstrate adequate circulation space in kitchen areas.</i></p> <p><i>Where primary habitable windows face side boundaries with reduced setbacks anticipated by SEPP 65, they should be redesigned to project 'ear' windows to avoid privacy impacts to the neighbours and still provide reasonable outlook to the residents in the development.</i></p> <p><i>No privacy screen is indicated on the south eastern edge of the terrace to Apartment 07. This is needed to reduce overlooking to 17 Wattle Street.</i></p> <p><i>The roof terrace planters should be of sufficient depth to stop downward viewing to neighbouring properties along the side and rear boundaries.</i></p> <p><u>Planner's Comment:</u> The furniture layout has been adjusted to demonstrate adequate circulation space is provided in apartments.</p> <p>Habitable room windows that are orientated to the side have been provided as high light windows, with the window sill being 2m from the finished floor level (FFL).</p> <p>The top floor unit terrace area (previously Unit 7, now Unit 6) setback has increased from 2.75m to 3.55m from the common boundary with 17 Wattle Street and will have a building separation of 8.8m. To minimise overlooking into the rear yard/cos of 17 Wattle Street, <b>Condition 1(b)</b> has been imposed requiring a privacy screen along the south east elevation of the terrace of Unit 6.</p> <p>The roof terrace planters have been widened to minimise overlooking to neighbouring properties, see <b>Figure 12</b> below.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>

**ITEM 1 (continued)**



**Figure 12: Roof top terrace with planter area shown in green with the usable area well setback from the edge of the building to prevent overlooking.**

<p><b>Safety</b></p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><u>UDRP Comments</u></p> <p><i>The pedestrian entry should be separated from the vehicle entry (potentially by landscape treatments) and any platform lifts and stair climbers should be located within the lobby space rather than outside the building envelope.</i></p> <p><i>The front facing ground level apartment should have a direct street access.</i></p> <p><u>Planner's Comment:</u> The pedestrian entry has been separated from the vehicle entry by a planter box.</p> <p>Ramps has now been provided to allow disabled access rather than a platform lift and the ground floor apartment has been provided with a separate private access. See Landscape Plan above, <b>Figure 9</b>.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
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**ITEM 1 (continued)**

<p><b>Housing Diversity and Social Interaction</b></p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><u>UDRP Comments</u></p> <p><i>The mix is considered appropriate.</i></p> <p><u>Planner's Comment:</u> The new proposal still maintains an appropriate mix, reduced from seven (7) to six (6) apartments as follows:</p> <ul style="list-style-type: none"> <li>- 2 x 1 bedroom</li> <li>- 2 x 2 bedroom</li> <li>- 2 x 3 bedroom</li> </ul> <p>This is considered acceptable.</p>
<p><b>Aesthetics</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><u>UDRP Comments</u></p> <p><i>The proposed brick materiality is supported and the intent to provide visual interest through articulation and applied elements is reasonable and supported in principle.</i></p> <p><i>The elevational proportion of the brick portion of the building towards the front of the site is tall and narrow, where the context suggests wider and lower proportions.</i></p> <p><i>The apparent width of the brick elements could be increased by incorporating the balcony corner in some way and by extending this brick element to ground. Similarly, the planter edging the balcony of the top floor is too visually heavy. Consider setting the balustrade and planter back further, so the slab edge is perceived as a simple, narrow linear 'roof' element.</i></p> <p><i>The balustrade could be changed from a planter to a glass balustrade to further reduce its visual impact.</i></p> <p><u>Planner's Comment:</u> The overall facade has been redesigned to address the Panel concerns with respect to the visual impact of the planter and</p>



**ITEM 1 (continued)**

balustrade at the upper levels and the elevational proportion of the brick portion has been increased to provide a better balance.

**Figures 13 & 14** below provides a comparison of the materiality from the original submission to amended.

The development (as amended) is considered to satisfy this Principle.



**Figure 13: Photomontage as originally proposed.**



**Figure 14: Amendments made. The brick has been extended across the facade and the top floor has been stepped back further to address the visual impact.**

**ITEM 1 (continued)**  
**Context and Site Isolation**

SEPP 65 requires residential flat development to respond and contribute to its context. A good design outcome is a development that positively contributes to the quality and identity of an area. There is a general expectation that site amalgamation will occur for sites to develop to their highest and best use. Where amalgamation is not possible, it is the onus of the Applicant to adequately address the potential for "site isolation" so that the remaining site will not be unduly disadvantaged in term of development potential. This is to include consideration of the principles established by the NSW Land and Environment Court in proceedings of *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* and *Melissa Grech vs. Auburn Council [2004] NSWLEC 40*.

The general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are:

- Firstly, is amalgamation of the sites feasible?
- Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

To the south of the site is a corner allotment – 17 Wattle Street, which contain a two storey residential flat building owned by NSW Land and Housing Corporation (see **Figure 6**). 17 Wattle Street has a site area of 583m<sup>2</sup> as such the small lot size would restrict redevelopment.

The principles to be applied in determining the answer to the first question are set out by Brown C in **Melissa Grech v Auburn Council [2004] NSWLEC 40**.

The three (3) principles to consider are:

1. *Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*
2. *Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*
3. *Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s79C of the Environmental Planning and Assessment Act 1979.*

**ITEM 1 (continued)**

The Applicant has advised that attempts to acquire 17 Wattle Street have proven unsuccessful. 17 Wattle Street is owned by NSW Land and Housing Corporation and the site currently provides social housing. The applicant has provided an email from Land and Housing Corporation advising that they were not able to deal with their request to acquire the site for amalgamation and any future consideration to sell the site will go through a public process via the normal real estate listings. Perusal of real estate sites did not show up 17 Wattle Street for sale. Accordingly, it is not possible to amalgamate and the development is considered on the subject site only.

The second matter, *can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?*

17 Wattle Street currently comprises of a two storey RFB and can be reasonably redeveloped in an orderly and economic manner and to its highest and best use as a stand-alone site just as the subject site has. As noted earlier, a portion of the proposed development has been shifted further to the north west as there is a greater separation between the existing development at 21 Wattle and the proposed development. This improves the relationship to 17 Wattle Street, which is currently setback 5.34m from the common boundary with the subject site. The shifting of the rear portion of the building to increase the setback to 2 – 3.35m results in a greater separation between the two buildings, a total separation of 7.34m to 8.69m.

Therefore, it can be reasonably assumed that 17 Wattle Street can be redeveloped for another RFB similar in siting as the current RFB.

Based on the information submitted, the Applicant has satisfied the process and requirements of the Land and Environment Court Principles relating to site isolation/amalgamation and refusal of the proposal on the basis of site isolation and failure for the Applicant to satisfactorily respond to these principles is not warranted.

Apartment Design Guide

Pursuant to Clause 30(2) of SEPP 65 in consideration of the Apartment Design Guide (ADG), The following table addresses the relevant matters.

Apartment Design Guide Requirement	Proposal	Complies
<b>Part 2 Development Controls</b>		
<b>Building Depth</b> Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.	The building has a maximum depth of 9.3m and complies with the DCP requirement.	Yes
<b>Building Separation</b> Minimum separation distances for buildings are: <i>up to 4 storeys should be:</i> -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms	The adjoining sites on the north-west, south – east and northern boundaries contain RFBs of varying heights (2 & 3 storeys). See <b>Figure 15</b> below for location of adjoining buildings.	

**ITEM 1 (continued)**

-6m between non-habitable rooms.



**Figure 15: Site plan of site illustrating the setbacks/location of adjoining buildings.**

Based on a 4 storey building the development should provide a 12m separation distance. Applying half the minimum separation distance required by the ADG results in a required setback to the boundary of 6m.

The subject site is 13.4m wide and 35.6m long. Adhering to a minimal 6m setback on a site with such a narrow geometry would not be possible. Accordingly, the applicant was requested to consider amalgamation with the adjoining site to the south-east (17 Wattle Street) which is of a similar size and width containing an older style 2 storey RFB comprising of 4 units. However, the site is owned and operated by the Land and Housing Corporation which provide social housing. LAHC advised that they don't directly negotiate with external parties and are not able to deal with the applicant's offer of purchasing the site. LAHC advised that if the property becomes available for sale, it will be marketed for sale and advertised on various public channels such as Real Estate websites.

As the applicant has submitted documentation demonstrating that at this time, it is not possible to amalgamate with 17 Wattle Street, UDRP has advised that in the absence of agreement from the Department, the Panel is comfortable with considering development of this site on its own.

As discussed earlier, the site is quite constrained in width and adhering to a minimal



**ITEM 1 (continued)**

	<p>6m setback on a site with such a narrow width would render the site undevelopable for medium density purposes, particularly given that future amalgamation is unlikely given the adjoining site is for social housing. The site is surrounded by other RFBs and is zoned High density residential, which allows for RFBs, therefore it is reasonable to consider redevelop of the site for medium density purposes subject to minimise impact to adjoining properties.</p> <p>For sites that are remnant, Council in the past, has permitted reduced setbacks along the side boundaries to 3m, provided there are no overlooking impacts and architectural relief is provided.</p> <p>Note: Some of the setback have been reduced to 2m where there is no impact (i.e. for the stairwell and where it is not adjacent to any buildings).</p> <p><u>Northwest Boundary to 21 Wattle Street (3 storey RFB)</u></p> <p>The development has proposed a setback of 1m for the driveway and 2m on the ground floor and 2m to 2.8m on Levels 1 &amp; 2 and 2m to 4.6m on level 3 from the north west boundary.</p> <p>Adjacent to the subject site is 21 Wattle Street access and car parking area with the building setback 12.8m &amp; 14.2m from the common boundary.</p> <p>Whilst the proposed setback is less than the required, the building separation between subject site and 21 Wattle Street is between 13.8m to 16.2m which is considered satisfactory. Due to the considerable setback on 21 Wattle Street, the UDRP recommended shifting the proposal towards the north west side boundary by 0.5 to 1m to ease the relationship to the south east apartment building on the corner. This could apply to only the rear portion of the building. The applicant has done this, with the rear portion now setback 2m off the common boundary with 21 Wattle Street, however despite the reduced setback, amenity to 21 Wattle is still maintained as the separation between the two buildings is 13.8m to 16.2m, which is more than what is required under the ADG.</p>	<p>Yes – building separation complies</p>
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**ITEM 1 (continued)**

	<p><u>Southeast Boundary to 17 Wattle Street (2 storey RFB)</u> Along the south east boundary, a setback of between 2m to 3.35m is proposed on the ground floor and Levels 1 &amp; 2 with Level 3 setback between 2m to 4.4m.</p> <p>The setback has been increased from 1.7m &amp; 2.7m to 2m to 3.35m (as recommended by the Panel). The 2m setback is for the stairwell with no windows and a bathroom with a high light window. The 3.35m setback is considered satisfactory as the windows along this elevation are all high light windows with window sill height of 2m.</p> <p>As 21 Wattle Street has its vehicle access and a parking area adjacent to the subject site with its building setback between 12.8m to 14.2m from the common boundary, the Panel suggested that the proposed building, particularly the rear part of the building, be shifted towards the north-west boundary to provide more 'breathing' space and landscape opportunity to the south. This has been done as recommended resulting in a greater setback to 17 Wattle Street with the building separation between this development and the 2 storey RFBs at 17 Wattle Street approximately 7.34m to 8.69m.</p> <p><u>North (rear) boundary to 89 Anzac Ave.</u> A 6m setback is proposed along the rear (northern) boundary which complies with the setback requirement. However, the adjoining building at the rear – 89 Anzac Ave – only has a setback of 2.7m and has windows and balconies facing the subject site. The building separation between the two building is 8.7m.</p> <p>To mitigate overlooking concerns the proposed rear living room windows on Levels 1 &amp; 2 are high light windows with dense landscaping provided along the rear boundary- a row of Lilly Pilly and three large trees – 1 x Macadamia Integrifolia (height 10m+) and 2 x Flowering Pear trees (height 5m to 10m) are proposed. Furthermore, a privacy screen has been provided on the rear balconies of Units 3 &amp; 5 which will ensure that privacy between the two buildings is maintained.</p> <p>Level 3 will have large rear windows off the main living area and a balcony however this</p>	<p>No – does not comply with building separation. Variation acceptable due to no overlooking impact.</p> <p>No – building separation does not comply, however the variation acceptable as the proposal</p>
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**ITEM 1 (continued)**

	<p>level is higher than the adjoining building and will look onto the roof area of 89 Anzac Ave.</p> <p>Windows facing adjoining properties have then been carefully treated with appropriate sill heights to maintain the privacy for the existing neighbouring apartments.</p>	<p>complies with the required setback and mitigation measures implemented.</p>
<p><b>Front, Rear &amp; Side Setbacks</b>          Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> <li>• define a future streetscape with the front building line</li> <li>• match existing development</li> <li>• step back from special buildings</li> <li>• retain significant trees</li> <li>• in centres the street setback may need to be consistent to reinforce the street edge</li> <li>• consider articulation zones accommodating balconies, landscaping etc. within the street setback</li> <li>• use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street</li> <li>• manage corner sites and secondary road frontages</li> </ul>	<p>The streetscape along this section of Wattle Street is of a varied setback with the immediate properties on either side of the subject site setback from 11.5m (21 Wattle Street) to 4.5m (17 Wattle Street - corner allotment).</p> <p>The proposed building will be setback 7.6m which is currently the setback of the existing dwelling. The setback allows for deep soil planting which provides screening and softens the development. The proposed setback is considered consistent with the streetscape.</p>	<p>Yes</p>
<b>Part 3 Siting the development Design criteria/guidance</b>		
<p><b>3B Orientation</b>          Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.</p>	<p>The building layout has been orientated to face Wattle Street. The orientation allows for street activation.</p>	<p>Yes</p>
<p><b>3C Public domain interface</b>          Transition between private &amp; public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.</p>	<p>The building has been amended as recommended by the UDRP which has improved the interface with Wattle Street</p>	<p>Yes</p>
<p><b>3D Communal &amp; public open space</b>          Provide communal open space to enhance amenity and opportunities for landscaping &amp; communal activities.</p> <ol style="list-style-type: none"> <li>1. Provide communal open space with an area equal to 25% of site;</li> <li>2. Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.</li> </ol>	<p>The ADG requires that the site provide 119.5m<sup>2</sup> as communal open space. COS is proposed on the roof top, being an area of 93m<sup>2</sup>. This is a shortfall of 26m<sup>2</sup> however the variation can be supported. The 3 bedroom unit on the ground floor has the rear yard area (approx. 106m<sup>2</sup>) as their POS and the top floor 3 bedroom unit has POS of 22m<sup>2</sup> with the other 4 units complying with the minimum POS required under the ADG.</p>	<p>No – variation acceptable.</p>

**ITEM 1 (continued)**

	The roof top COS will receive the required solar access, more than 50% will of the usable area of COS will received direct sunlight.													
<b>3E Deep Soil Zone</b> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality. 1. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 3m – 6m.	The development has provided 107m <sup>2</sup> of deep soil zones within the front and rear setback, this is 22.3% of the site area and is considered satisfactory.	Yes												
<b>3F Visual Privacy</b> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1" data-bbox="256 1025 751 1279"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms &amp; balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	See discussion under Building Separation.	No – variation acceptable. See full discussion under Building Separation.
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<b>3G Pedestrian Access &amp; entries</b> Pedestrian access, entries and pathways are accessible and easy to identify.	The development proposes a pedestrian entry to the building from Wattle Street. The entry is accessible and easy to identify.	Yes												
<b>3H Vehicle Access.</b> Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	The development has been amended to provide a passing bay at the side of the driveway which is considered satisfactory by Council's Development Engineer.	Yes												
<b>3J Parking Provisions.</b> Car parking: For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less. Bicycle Parking Provide adequate motorbike, scooter and bicycle parking space (undercover).	The site is within 800m of a railway station, (440m from West Ryde Station).  RMS Guide to Traffic Generating parking rates are the same as Council's DCP 2014 car parking requirements (minimum) <ul style="list-style-type: none"> <li>- 0.6 spaces per 1 bedroom unit.</li> <li>- 0.9 spaces per 2 bedroom unit.</li> <li>- 1.40 spaces per 3 bedroom unit.</li> <li>- 1 space per 5 units (visitor parking).</li> </ul> The proposal for 6 residential units of 2 x 1 bedroom, 2 x 2 bedrooms and 2 x 3 bedrooms would generate the following requirement:	Yes												



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	<ul style="list-style-type: none"> <li>- 0.6 x 2 = 1.2</li> <li>- 0.9 x 2 = 1.8</li> <li>- 1.4 x 2 = <u>2.8</u></li> <li style="padding-left: 40px;">5.8 (6) resident</li> <li>- 6 / 5 = 1.2 (2) visitor</li> </ul> <p>Total required = 8 spaces. Proposed = 8 spaces.</p> <p>The proposal is compliant with Council's DCP requirements.</p> <p>The DCP does not require any for motorbikes or scooter parking as the floor space of the proposal development does not exceed 600m<sup>2</sup>, however 2 bicycle parking has been provided.</p>	
<b>Part 4 Designing the building</b>		
<p><b>4A Solar &amp; daylight access</b> Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. Design should incorporate shading and glare control, particularly for warmer months</p>	<p>70% (or 4.2) of the apartments is required to receive 2 hours of solar access. All of the 6 units will receive the required 2 hours of direct sunlight between 9am and 3pm midwinter.</p>	Yes
<p><b>4B Natural Ventilation</b> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	<p>All apartments will be cross ventilated.</p>	Yes
<p><b>4C Ceiling Heights</b> Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.</p>	<p>Each residential level has proposed 3.1m between floors which will accommodate 2.75m ceiling heights.</p> <p>3100 mm floor to floor provided - assuming 200mm thick slab, 30mm for flooring and 120 for ceiling – 2750mm.</p>	Yes
<p><b>4D Apartment size and layout</b> Apartments are required to have the following minimum internal areas with one bathroom:</p> <ul style="list-style-type: none"> <li>• Studio = 35m<sup>2</sup>;</li> <li>• 1 bedroom = 50m<sup>2</sup>;</li> <li>• 2 bedroom = 70m<sup>2</sup>;</li> </ul>	<p>1 bed units - 50m<sup>2</sup> (one bathroom) 2 beds units – 75m<sup>2</sup> (2 bathrooms)</p>	

**ITEM 1 (continued)**

<ul style="list-style-type: none"> <li>• 3 bedroom = 90m<sup>2</sup>;</li> <li>• 4 bedroom = 102m<sup>2</sup>.</li> </ul> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.</p> <p>Master bedrooms – minimum area 10m<sup>2</sup> Excluding wardrobe spaces.</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<p>3 bed units – 95 m<sup>2</sup> &amp; 108m<sup>2</sup> (2 bathrooms)</p> <p>All habitable rooms have a window compliant with the rates. All of the apartments either comply or exceed the minimum requirements.</p> <p>All bedrooms have a minimum area of 10m<sup>2</sup>, excluding wardrobe space. Living rooms/combined living/dining area have a minimum width of 3.8m &amp; 4m for one &amp; two bedrooms, respectively.</p>	<p>Yes</p> <p>Yes</p>																		
<p><b>4E Private Open Space and balconies</b>                  All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="256 1093 695 1317"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Min. depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>N/A</td> </tr> <tr> <td>1 bedroom</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> <tr> <td>Ground or podium</td> <td>15m<sup>2</sup></td> <td>3m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Min. depth	Studio apartments	4m <sup>2</sup>	N/A	1 bedroom	8m <sup>2</sup>	2m	2 bedroom	10m <sup>2</sup>	2m	3+ bedroom	12m <sup>2</sup>	2.4m	Ground or podium	15m <sup>2</sup>	3m	<p>Balconies meet minimum size requirements. Ground level courtyards meet required 15m<sup>2</sup> and minimum dimensions.</p>	<p>Yes</p>
Dwelling type	Minimum area	Min. depth																		
Studio apartments	4m <sup>2</sup>	N/A																		
1 bedroom	8m <sup>2</sup>	2m																		
2 bedroom	10m <sup>2</sup>	2m																		
3+ bedroom	12m <sup>2</sup>	2.4m																		
Ground or podium	15m <sup>2</sup>	3m																		
<p><b>4F Common circulation and spaces.</b>                  The maximum number of apartments off a circulation core on a single level is 8. Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of the corridor.</p>	<p>The development proposes a maximum of 2 apartments to be accessed from the circulation space. The circulation space will receive daylight and natural ventilation. The development complies with this requirement.</p>	<p>Yes</p>																		
<p><b>4G Storage</b>                  In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table border="1" data-bbox="256 1653 735 1843"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m<sup>3</sup></td> </tr> <tr> <td>1 bedroom apt</td> <td>6m<sup>3</sup></td> </tr> <tr> <td>2 bedroom apt</td> <td>8m<sup>3</sup></td> </tr> <tr> <td>3 + bedroom apt</td> <td>10m<sup>3</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio	4m <sup>3</sup>	1 bedroom apt	6m <sup>3</sup>	2 bedroom apt	8m <sup>3</sup>	3 + bedroom apt	10m <sup>3</sup>	<p>All of the one bedroom units have provided the required half storage in the units but none in the basement.</p> <p>The 2 bedrooms units have provided more than the required 50% of storage in the units but none in the basement.</p> <p>The 3 bedroom units, Unit 1 has 12m<sup>3</sup> of storage within the unit and the other 3 bedroom, Unit 6 has 6m<sup>3</sup> of storage in the unit.</p> <p><b>Condition 1 (b )</b> has been imposed requiring storage cages being provided above the residents carparking spaces. With the imposition of this conditions, the proposal will</p>	<p>No – can be condition to comply</p>								
Dwelling type	Storage size volume																			
Studio	4m <sup>3</sup>																			
1 bedroom apt	6m <sup>3</sup>																			
2 bedroom apt	8m <sup>3</sup>																			
3 + bedroom apt	10m <sup>3</sup>																			

**ITEM 1 (continued)**

	be able to comply with the storage requirement.	
<b>4H Acoustic privacy</b> Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments. Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Appropriate acoustic privacy will be provided for each apartment. Living rooms and balconies have generally been orientated away from the adjoining apartment building, reducing any voice projection from residents.  An acoustic report has been completed by Acoustic Logic, with appropriate glazed windows and doors nominated for all apartments to minimise noise impacts. <b>Condition 39</b> has been imposed requiring compliance with the recommendations contained in the report.	Yes
<b>4K Apartment mix</b> A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.	The development has incorporated equal amount of 1, 2 & 3 bedroom units which will provides housing choice which meets the general market needs.	Yes
<b>4M Facades</b> Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents. Building facades are expressed by the façade.	The building facades are strongly articulated with the use of balconies, terraces and screening. The façade has been amended as per the Panel's recommendation and will provides an acceptable contextual fit with the surrounding development.	Yes
<b>4N Roof design</b> Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use the roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	The development has proposed a flat roof to be used as communal open space area, which is integrated with the overall development.	Yes
<b>4O Landscape design</b> Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	Landscaping is proposed along the perimeter of the site, with deep soil zone within the front and rear setback. Council's Landscape Architect has advised that the amended landscape plan is satisfactory.	Yes
<b>4P Planting on structures</b> Appropriate soil profiles are provided.	The development will comply with the minimum soil depth as specified in the ADG. <b>Conditions 1(a) &amp; 59</b> have been imposed to ensure compliance.	Yes
<b>4Q Universal design</b> Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	1 adaptable unit is proposed, which provide flexible housing stock. The development complies with these requirements.	Yes
<b>4U Energy efficiency</b> Development incorporates passive environmental design measures – solar design, natural ventilation etc.	The development complies with these requirements complying with the solar and natural ventilation requirement.	Yes

**ITEM 1 (continued)**

**Other relevant State Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>State Environmental Planning Policy No. 55 – Remediation of Land</b>		
<p>The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.</p>	<p>The requirements of State Planning Policy No. 55 – Remediation of Land (SEPP 55) apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, if it is contaminated whether it is suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed development.</p> <p>The site has been occupied by the existing dwellings and used for residential purposes and there is no information that suggests that the site may be potentially contaminated.</p> <p>Notwithstanding, a Preliminary Site Investigation has been prepared by EI Australia in order to assess the potential for contamination to exist on the site. A Conceptual Site Model (CSM) was prepared in order for a qualitative evaluation to be made of the potential risk for contamination to exist on the site.</p> <p>The report conclude, inter alia,</p> <ul style="list-style-type: none"> <li>○ <i>Historic records indicate that the site was vacant prior to 1930 to at least 1943. The existing residential dwelling was constructed before 1951 (late 1940's).</i></li> <li>○ <i>Public records did not identify the significant use or storage of hazardous chemicals, and no significant contamination events had occurred at the site.</i></li> <li>○ <i>No evidence of underground petroleum storage systems (UPSS), underground or above ground storage tanks (UST I AST) were observed on any parts of the site; and</i></li> </ul>	<p>Yes</p>



**ITEM 1 (continued)**

	<ul style="list-style-type: none"> <li>○ <i>No suspicious odours or evidence of gross contamination was observed at any part of the site during the inspection;</i></li> </ul> <p><i>A conceptual site model (CSM), was developed for the qualitative evaluation of risk posed by potential contamination that may exist at the site (Section 4.2). The CSM revealed a low to moderate likelihood of contamination to exist within the site, as a result of:</i></p> <ul style="list-style-type: none"> <li>○ <i>Low likelihood of contaminated soil;</i></li> <li>○ <i>Low likelihood of impacted groundwater migrating to site, or as a secondary source of contamination resulting from the migration of contaminants from onsite soils.</i></li> </ul> <p><i>Taking into account the above considerations and subject to the statement of limitations I consider that the site can be made suitable for its proposed use, subject to the implementation of recommendations detailed in Section 6 of the report.</i></p> <p>No objections to the proposal subject to conditions, including <b>Condition 28</b> which requires compliance with the recommendations contained in the report by EI.</p>	
<p><b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b></p>		
<p>The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.</p> <p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal seeks to remove two (2) trees which include Tree 2 <i>Pistachio chinensis</i> (Chinese Pistachio) located in the adjoining property at 21 Wattle Street and Tree 3 <i>Prunus sp.</i>(Flowering Tree) located in the adjoining property at 17 Wattle Street. Since the lodgement of this application, Tree 3 has since been removed by the owner of 17 Wattle Street. Owners consent has been provided from 21 Wattle Street.</p> <p>The proposal has been supported by a landscape plan and an arborist report. The proposal does not include the</p>	<p>Yes</p>

**ITEM 1 (continued)**

	removal of any significant vegetation. Council's Landscape Architect considers the proposal to be acceptable subject to recommended conditions of consent.	
<b>State Environmental Planning Policy (Building Sustainability Index BASIX) 2004</b>		
The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building.	<p>The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, an amended BASIX Certificate has been submitted (No 1214637M_02 dated 1 October 2021) which provides the development with a satisfactory target rating.</p> <p>Appropriate conditions have been imposed requiring compliance with the BASIX commitments detailed within the Certificate. See <b>Conditions 3 &amp; 97</b>.</p>	Yes
<b>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</b>		
This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.	The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2014. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.	Yes

**5.3 Ryde Local Environmental Plan 2014**

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2014.

The site is zoned R4 High Density Residential under the provisions of the RLEP 2014. The proposed residential flat building is permissible with development consent.

**ITEM 1 (continued)**
**Clause 2.3 – Zone Objectives**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development complies with the above objectives. It will be consistent with the desired future character for the precinct by providing residential accommodation close to shops, employment and public transport.

Clause	Proposal	Compliance
<b>4.3(2) Height of Buildings</b>		
15.5m	The maximum height of the proposed development is 16.34m to the lift overrun	<b>No</b>
<b>4.4(2) Floor Space Ratio</b>		
1:1 (5,343.3m <sup>2</sup> ) SA: (1,979m <sup>2</sup> )	GFA of 477.8m <sup>2</sup> resulting in an FSR of 1:1.	Yes
<b>4.6 Exceptions to development standards</b>		
(1) The objectives of this clause are as follows—  (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,  (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	The proposal has a height of 16.34m and a variation of 5.4% sought to Clause 4.3(2). Refer to discussion below.	Yes
<b>5.21 Flood Planning</b>		
(1) The objective of this clauses are as follows: (a) to minimise the flood risk to life and property associated with the use of land,  (a) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,	The site is mapped as being impacted flooding over a large proportion of the site.  The proposal has been supported by a Flood Impact Study and is consistent with the objectives within Clause(a) 5.21. The proposal has been considered satisfactory by Council's City Works – Drainage.	Yes

**ITEM 1 (continued)**

Clause	Proposal	Compliance
(b) to avoid significant adverse impacts on flood behaviour and the environment,  (c) to enable the safe occupation and efficient evacuation of people in the event of a flood.		
<b>6.2 Earthworks</b>		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The proposed development includes excavation for one level of basement car park. Council's Senior Development Engineer has reviewed the proposal and it is considered satisfactory. <b>Condition 46</b> is imposed requiring compliance with an Erosion and Sediment control plan and the measures proposed.	Yes
<b>6.4 Stormwater Management</b>		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	Council's Senior Coordinator Development Engineer has raised no objections to the proposed stormwater management system for the site, subject to engineering conditions.	Yes

Clause 4.6 Exceptions to development standards

The development contravenes Clause 4.3(2) of RLEP 2014, which established a maximum building height of 15.5m. The proposal results in a maximum height of 16.34m for the lift overrun. The stairs to the roof area and top of the shade cloth also exceeds the building height by maximum 300mm.

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for the development.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?



**ITEM 1 (continued)**

- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard as unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently compliance with that development standard is unnecessary and unreasonable.

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

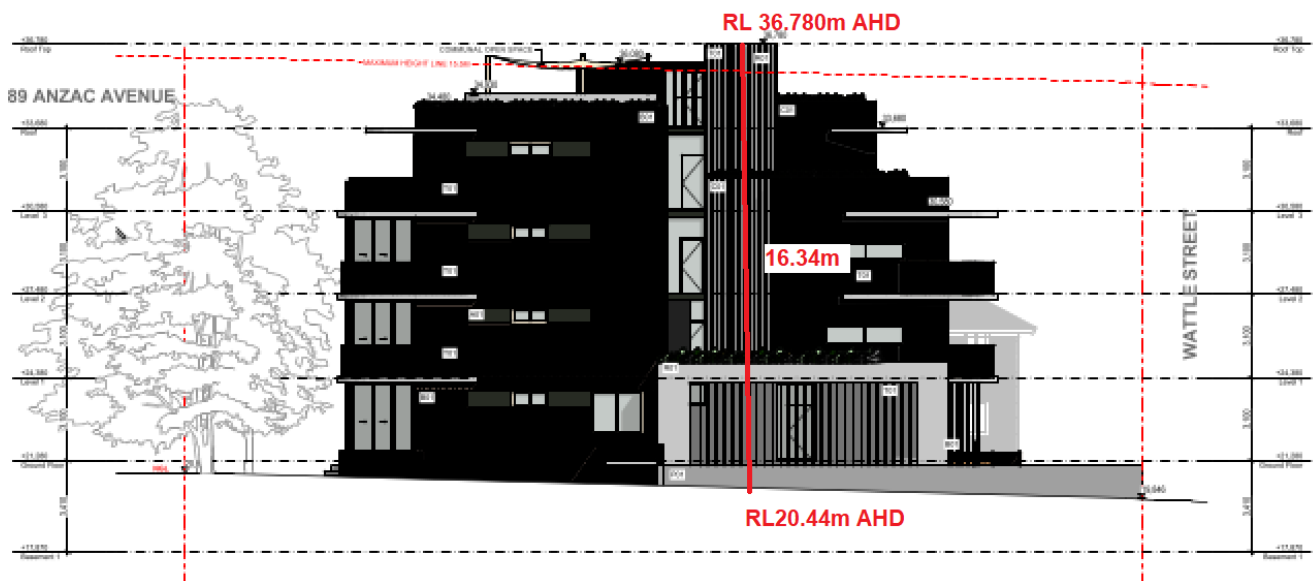
### ITEM 1 (continued)

The applicant has submitted a Clause 4.6 request prepared by Andrew Robinson Planning Services Pty Ltd dated 11 October 2021 (**Attachment 2**) to vary the development standard.

Building height is defined in the RLEP 2014 as meaning “*the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*”

The proposal’s communal open space area is located on the roof with lift and stairs access. The proposed development, as shown on the Architectural Plans prepared by Architecture Design Studio (NSW) Pty Ltd has a maximum height of 16.34m. This exceeds the 15.5m statutory maximum building height by 840mm (lift overrun), which is a variation of 5.4% variation.

**Figures 16 & 17** below illustrate the 15.5m height plane and the extent of non-compliance.



**Figure 16: North west elevation of the development illustrating the section above the height line.**

**ITEM 1 (continued)**



**Figure 17: Height plane showing the extent of non compliance to the lift well and also for small section of the fire stairs, corner tips of the shade cloth, relative to the height limit.**

While the maximum breach occurs between the top of the lift overrun and the ground level immediately below, the fire stair enclosure and part of the shade cloth also exceeds the statutory height limit between 80mm (northern end) and 280mm (southern end), as illustrated in **Figure 17** above. Both the lift and fire stairs provide access to the rooftop communal open space. The shade cloth provide amenity to the roof terrace.

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

Unreasonable and unnecessary

*It is considered that despite the non-compliance, the proposed development achieves the objectives of the height of buildings development standard for the following reasons:*

**ITEM 1 (continued)**

- *the proposed scale and massing of the building is consistent with the existing character of the locality;*
- *the extent of the non-compliance does not seek to increase the number of storeys or density of the development but allows for equitable access to the roof top communal open space. As such, there is no tangible nexus between the height variation and the overall land use intensity;*
- *the area of non-compliance will not result in any unreasonable adverse impacts on the adjoining land uses with respect to overshadowing, loss of privacy, inappropriate scale etc;*
- *Despite the breach to the building height standard, the building will make a positive contribution to the streetscape character and visual amenity of the area. The non-compliant height does not contribute to an unreasonable visual impact or a loss of privacy to adjoining properties. Further, although more modern in its architecture, it is considered that the proposed building will be compatible with the existing older style architecture and likely future streetscape character and will make a positive contribution to the streetscape and visual amenity of the area;*
- *As noted in the planning principle adopted in Project Venture Developments v Pittwater Council [2005J NSW LEC 191, compatibility is .....different from sameness. Further, that it is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve. Likewise, while compatibility in architectural style and materiality is certainly one aspect of making a subjective assessment as to the compatibility of a building with the character of an area, it is considered that the relationship of a particular built form to surrounding space created by building height, setbacks and landscaping are also significant contributors to urban character. In this regard, it is considered that despite having a modern architectural style and appearance, the proposed building will make a positive contribution to the streetscape and visual amenity through a built form and appearance that is in harmony with the scale and density of surrounding development.*

**Environmental planning grounds**

The justification in the applicant's request and Assessment Officer's comments are below:

*It is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:*

**Flood Protection**

- *Flood advice provided by Ryde City Council in October 2018, identified the site as being affected by overland flows associated with the 1 % AEP (1 in 100 year flood event). As such, in order to minimise the risks associated with potential inundation, Council policy requires the minimum habitable floor level to be set at 500mm higher than the 1 % AEP flood level (1 in 100 year event) of RL20.77m AHD. As such, the minimum habitable floor level must be set at a minimum of RL21.27m AHD.*
- *The site has a gradual slope in south-easterly direction, but based on the existing ground levels, means that the minimum habitable floor level of*



**ITEM 1 (continued)**

*RL21.27m is between approximately 670mm and 1.3m higher than the existing site levels. Therefore, the building has had to be raised approximately 1 m higher than would have been necessary if the site had not been subject to overland flows and the risk of inundation.*

- *Notwithstanding, the raising of the building height in order to achieve the nominated minimum habitable floor level represents a better planning outcome as it will provide residents (in particular, those residing on the ground floor) with effective protection from potential flooding.*

**Rooftop Communal Open Space**

- *Although protruding beyond the statutory height limit, the lift and stairs facilitate equitable access to the rooftop communal open space. As a small site that is unable to achieve the ADG design criteria of communal open space that has a minimum area equal to 25% of the site area and that will achieve a minimum of 2 hours solar access to at least 50% of its area between 9am and 3pm in mid-winter, Objective 3D-1 of the ADG encourages the provision of communal open space elsewhere, such as a landscaped roof top terrace. In order to provide equitable access to this communal area, the lift and fire stairs must continue to the roof terrace level and therefore, will generally be the highest elements of an RFB or mixed use building.*
- *The inability to achieve amalgamation with the adjoining site due to its ownership by the NSW Land & Housing Corporation and the inability of the LAHC to enter into private negotiations with respect to the sale of LAHC properties means that the site is not able to provide the requisite communal open space at ground level.*
- *However, the provision of roof top communal open space provides a consolidated and useable area that will not impact on the amenity of the residents and will receive high levels of solar access throughout the year, including mid-winter. This is considered to be a better planning outcome and will provide for a much higher amenity for the enjoyment of the residents and their guests*

**Built Form & Context**

- *Despite the proposed building exceeding the height of buildings principal development standard, the overall bulk and scale of the building is considered to be acceptable in terms of its scale and built form and the relationship of the building to the adjoining and surrounding residential development.*
- *The additional height of the building does not constitute an additional storey and maintains a building of a scale and form that is appropriate for the location, providing visual interest and a varied building profile, despite having been raised in order to achieve the required minimum habitable floor level.*
- *As the breach is restricted to the lift overrun and fire stair enclosure, the additional height will not cause the scale of the building to be inconsistent with the surrounding and nearby residential flat buildings.*
- *The proposal is consistent with the aims and objectives of Ryde Local Environmental Plan 2014; and*
- *The proposal is generally consistent with the objects of the Environmental Planning & Assessment Act 1979, in particular, the orderly and economic use and development of land and ecologically sustainable development.*



**ITEM 1 (continued)****Assessment Officer's Comments:**

The design and layout of the proposal is a good planning outcome which fits in a very constrained site (13.4m wide). The additional height is limited to a section of the lift overrun and the stairwell, towards the middle of the site, well back from the street boundary.

The proposed variation will not have any adverse impact in regard to the local character. Whilst the immediate adjoining sites are two & three storeys RFBs, four storeys with maximum height of 15.5m are permitted within this zone with the variation only for a section of the stairwell and lift overrun, which will not be visible from the public domain. In addition, the layout and form of the development break down the scale of the facades as does the external building materials, colours and finishes.

Furthermore, overshadowing from the lift overrun is minimal and will not adversely impact on the adjoining south east property (17 Wattle Street). 17 Wattle Street will enjoy the benefit of the morning sun from 9am until 12 noon when some shadow will be cast onto 17 Wattle Street north west elevation. By 3pm 17 Wattle Street will be overshadowed however due to the orientation overshadowing will occur from any redevelopment of the site. In regards to the additional impact from the non compliance from the lift overrun, the additional shadow is minimal and will not impact 17 Wattle Street.

The benefits described above also demonstrate that compliance with the development standard is unreasonable and unnecessary when considered in the context of the development surrounding the site.

Therefore, the development, despite the minor non-compliance with the development standard, is consistent with the planning and environmental objectives of the control and in this instance, numerical compliance would not contribute to an improved outcome. As such it is considered that a complying development is neither, reasonable or necessary in circumstances of the case.

Furthermore, the proposal does not have unreasonable impacts on surrounding properties for the reasons stated above. Given the particular circumstances for this site (site constraint, inability to amalgamate and flooding levels requiring the habitable floor level to be raised higher than if the site were not subject to flooding), the inclusion of the roof terrace provides for useful communal open space in a location that has high amenity and minimal impacts to the adjoining properties compared with communal open space located at rear ground level. Accordingly, there are sufficient environmental planning grounds to justify the contravening the standard.

Overall, the development provides a better planning outcome for this particular site and also the surrounding area in terms of streetscape and visual fit.

**ITEM 1 (continued)****Is the proposal in the public interest?**

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. The objectives of Clause 4.3 are as follows:

**Clause 4.3 Height of buildings**

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
  - (b) *to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
  - (c) *to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
  - (d) *to minimise the impact of development on the amenity of surrounding properties,*
  - (e) *to emphasise road frontages along road corridors.*

The proposal is in keeping with the character of nearby development, minimises overshadowing and is compatible with and improves the appearance of Gladesville town centre. The proposal does not result in any adverse amenity impacts upon surrounding properties.

The proposal is consistent with the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The development is consistent with the objectives of the standard and zone as required by Clause 4.6(4)(a)(i).
- The proposal achieves the objectives of the standard as required by Clause 4.6(3)(a).
- The development provides for a suitable residential use in an accessible location.

**Summary**

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.3(2) Height. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

**ITEM 1 (continued)**

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Council is of the opinion that the proposed development will not be contrary to the public interest because of consistency with the objectives of the development standard for height.

The concurrence of the Planning Secretary is not required. Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Accordingly, the proposal variation is supported.

**5.4 Draft Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>Draft Remediation of Land State Environmental Planning Policy</b>		
<p>The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:</p> <p><i>As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP 55 assessment earlier in this report, a review of the submitted documentation has been undertaken and raised no objections to the proposal subject to recommended conditions that would be imposed if the proposal was recommended for approval.</p>	<p>Yes</p>
<b>Draft Environment SEPP</b>		
<p>The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include:</p>	<p>The proposal is not inconsistent with the provisions of the draft SEPP.</p>	<p>Yes</p>

**ITEM 1 (continued)**

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
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**5.5 Development Control Plans**
**Ryde Development Control Plan 2014 (RDCP 2014)**

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 4.3: West Ryde Town Centre
- Part 7.2: Waste Minimisation and Management
- Part 8.2: Stormwater & Floodplain Management
- Part 8.3: Driveways
- Part 9.2: Access for People with Disabilities
- Part 9.3: Parking Controls

With regard to Parts 7.2, 8.2, 8.3 and 9.2 of the RDCP 2014, noting the advice from various technical departments within Council and the consideration of issues previously in this report, the proposal is considered satisfactory in relation to the controls contained in these Parts.

Part 4.3 - West Ryde Town Centre

Part 4.3 - West Ryde Town Centre provides controls specific to the West Ryde Town Centre and the site is located on the north-eastern edge of the Town Centre.

Control	Comments	Comply
<b>3.0 General Development Controls</b>		
<u>3.1 Building Height and Bulk</u>  a. The maximum height of any building in the town centre will be in accordance with the height shown on Ryde Local Environmental Plan 2014 Height of Building Map. b. Scale and bulk of development will primarily be determined by the maximum Floor Space Ratio applying to the land. Floor Space Ratio of buildings is to be in accordance with the Ryde Local Environmental Plan 2014 Floor	Maximum height 15.5m Proposed 16.3m for lift overrun.  FSR 1:1 permitted Proposed: 1:1	No - Clause 4.6 submitted and supported.  Yes

**ITEM 1 (continued)**

<p>Space Ratio Map. Floor to Ceiling Heights</p> <p>c. The following controls provide the minimum floor to ceiling heights, as illustrated in Figure 4.3.03:</p> <p>i. Non residential uses: - Ground floor retail/commercial uses require 3.6 metres floor to ceiling height; and – Any non residential level above require a minimum 3.3 metres floor to ceiling height; and</p> <p>ii. All residential uses: - Minimum 2.7 metres floor to ceiling height.</p>	<p>Residential use – 3.1m with 2.7m floor to ceiling.</p>	<p>Yes</p>
<p><u>3.13 Street setbacks and alignment</u></p> <p>a. New buildings are to have street frontages built predominantly to the street alignment for the first 2 storeys, except for land to which this Part of the DCP applies and are zoned residential, industrial or enterprise corridor.</p> <p>b. The first two storeys of all buildings along a build to street (hard) setback line as indicated in Figure 4.3.04, are generally to maintain a hard alignment with the street. Setbacks are to be minimised.</p> <p>c. New buildings which are built along a street frontage with no build to street setback line indicated in Figure 4.3.04 are to provide setbacks as required for their development type.</p> <p>d. Building design is to minimise any adverse wind effects on public spaces. The orientation, height and form of development are to be designed to promote public safety and comfort at ground level. Awnings are to be</p>	<p>Zoned residential</p> <p>Site not within Figure 4.3.04</p> <p>Setback 7.7m – same as existing.</p> <p>No public space is adversely impacted by the proposal.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>



**ITEM 1 (continued)**

<p>provided, if necessary, for pedestrian comfort. e. All applications for buildings over 5 storeys shall be accompanied with a Wind Impact Statement from a qualified person. For buildings over 9 storeys a detailed wind impact study must be submitted.</p>	<p>4 storeys.</p>	<p>N/A</p>
<p><u>3.1.9 Visual Privacy and Acoustic Amenity</u></p> <p><b>Visual Amenity</b> Orientate the main living spaces within apartments to the street and/or communal open space (in designing the layouts this will need to be balanced against other criteria such as solar access). Proposed development should address the design principles outlined in the NSW Police Service's Crime Prevention through Environmental Design (CPTED).</p> <p><b>Acoustic Amenity</b> Where residential development is proposed in proximity to a major road, railway lines or major noise generating activity, appropriate materials with acoustic properties should be incorporated in the design of the dwellings.</p>	<p>Front and rear apartments main living areas face the street and rear.</p> <p><b>Conditions 128 to 132</b> imposed to ensure the proposal is designed in accordance with CPTED principles.</p> <p>Not in proximity of a major road, railway line however an Acoustic Report has been submitted and <b>Condition 39</b> imposed for compliance with the recommendations contained in the report.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
<p><u>3.1.10 Housing Choice and Mix</u></p> <p>a. Developments comprising residential uses must provide a variety of residential units mix, sizes and layouts within each residential development. b. The total number of studio units and one-bedroom apartments/dwellings within any development must not exceed</p>	<p>Proposed: 2 x 1 bed (33.3%), 2 x 2 bed (33.35) &amp; 2 x 3 bedrooms (33.3%).</p> <p>This is considered acceptable given the small number of units proposed. Only 2 one bedroom units are proposed, which is considered to satisfy</p>	<p>No – acceptable on merit.</p>

**ITEM 1 (continued)**

<p>25% of the total number of apartments/dwellings.</p>	<p>the market demand in the area.</p>	
<p><u>3.2.1 Vehicular Access</u></p> <p>a. Vehicle access is to be designed to:</p> <p>i. Minimise the impact on the street, site layout and the building facade; and</p> <p>ii. Be integrated into the building design, if located off a primary street frontage.</p> <p>b. Vehicle access to properties should be provided from lower order roads or rear lanes where possible.</p> <p>c. New property access to Victoria Road will be permitted only where it is determined that access from a lower order road or laneway is not possible or would result in a detrimental impact to the surrounding traffic network. Access point must be RMS compliant.</p> <p>d. Vehicle access points are to be minimised as much as possible, particularly within mixed use developments and residential flat buildings. Where practicable, buildings should share, amalgamate, or provide a rear lane for vehicle access points.</p>	<p>Design changes to the driveway as recommended by the UDRP has integrated the driveway into the building design.</p> <p>Access is off Wattle Street and Council's Traffic Engineer has raised no objections to the driveway.</p>	<p>Yes</p>
<p><u>3.2.3 Bicycle Facilities</u></p> <p>a. Bicycle storage racks are to be provided to accommodate a minimum of:</p> <ul style="list-style-type: none"> <li>- 1 bicycle space for every 200 square metres of office floor space;</li> <li>- 1 bicycle space per 300 square metres of retail; and</li> <li>- 1 bicycle space for every 3 residential units.</li> </ul> <p>b. Bicycle racks must be easily accessible from the public</p>	<p>Based on 6 units, 2 bicycle spaces are required. 2 spaces are provided.</p>	<p>Yes</p>

**ITEM 1 (continued)**

<p>domain, and within areas that are well lit with adequate levels of natural surveillance.</p> <p>c. The bicycle parking area must be capable of being made secure to protect the security of cyclists and their belongings. Communal showers, changing facilities and lockers for storing cycle attire and equipment may be required.</p> <p>d. Notwithstanding (b) and (c) above, bicycle storage facilities for residential uses can be provided within private garage areas, where it is demonstrated that: - there is sufficient storage within the garage for a bicycle and the required number of vehicles; and - there is a safe path for cyclists to leave the garage area.</p>		
<p><u>3.3.1 Solar Access</u></p> <p>a. All developments must provide shadow diagrams that accurately describe the overshadowing impact to adjacent buildings and public domain areas.</p> <p>b. Demonstrate access to sunlight is to be substantially maintained so that existing private and public open spaces, footpaths and existing windows to habitable rooms in adjoining buildings receive at least 3 hours of sunlight between 9 am and 3 pm on 21 June (winter solstice).</p> <p>c. Major public open spaces are to be designed to receive a minimum of 50% sunlight on the ground plane for at least 2 hours between 10 am and 2 pm on 21 June.</p>	<p>Shadow diagrams submitted and due to the orientation of the site, 17 Wattle (south east property) will have some overshadowing by 12 noon and will be in shade by 3pm. However 17 Wattle Street will still be able to receive the required 3 hours sunlight from 9am to midday.</p> <p>No public open space will be overshadowed.</p>	<p>Yes</p>
<p><u>3.3.3 Stormwater Management</u></p> <p>a. All stormwater drainage is to be designed in accordance with</p>	<p>Council's Development Engineer and Drainage Engineer have reviewed the proposal and have raised no</p>	<p>Yes</p>

**ITEM 1 (continued)**

<p>Part 8.2 Stormwater Management of this DCP.</p> <p>b. A Stormwater Management Plan is required to be submitted with all development applications.</p> <p>c. Access to underground parking is to be designed with consideration to flood levels and impact on the street frontage.</p> <p>d. All new development should meet best practice targets for stormwater management set out in Managing Urban Stormwater (The Blue Book) by Landcom.</p> <p>e. Runoff which enters a property from upstream properties must not be obstructed or impeded from flowing onto the site and must not be redirected so as to increase the quantity or concentration of surface runoff entering adjoining properties.</p> <p>f. Where appropriate enable the installation of grey water collection treatment on site, so that waste water can be re-used for non-potable purposes, such as toilet flushing and irrigation of gardens and landscape.</p>	<p>objections to the proposal subject to conditions. <b>Conditions 42 to 44.</b></p>	
<p><u>3.4.1 Street Furniture, Paving &amp; Street Lighting</u></p> <p>a. Developments which entail the provision of new public spaces (i.e. streets, footpaths, walk ways and the like) will need to incorporate new street furniture and paving and in some cases underground power lines and new light poles in the public space.</p> <p>b. Street furniture, paving, underground power lines, and lighting should be designed and installed in accordance with the</p>	<p>Council's City Works – Public Domain has reviewed the proposal and public domain has traditionally been addressed via conditions of consent. These conditions identify what is required in respect of the public domain as well as requiring a plan to be submitted in respect of the public domain. This plan requires Council's approval prior to the issue of any Construction Certificate with works completed prior to the</p>	<p>Yes</p>

**ITEM 1 (continued)**

City of Ryde Public Domain Technical Manual.	any Occupation Certificate. See <b>Conditions 49 &amp; 50.</b>	
<p>3.4.3 Public Art</p> <p>a. Public art is to be in keeping with the City of Ryde Public Domain Technical Manual and the City of Ryde Public Art Policy.</p> <p>b. Public art must be included in all new mixed use development with an estimated construction value of more than \$20 Million. c. A site specific Arts Plan is to be submitted together with a development application. d. Requirements for the provision of public art and the format of an Arts Plan are to be confirmed with Council prior to lodging a Development Application.</p>	CIV is less than \$20m.	N/A
<b>4.0 PRECINCT SPECIFIC DEVELOPMENT CONTROLS</b>		
<b>4.4 Precinct 4 – Anzac Park</b>		
<p>a. New buildings are to be designed to activate facades which interface with Anzac Park to promote casual surveillance and interaction (eg. design to include upper level balconies and low front walls).</p> <p>b. The bulk and scale of new development is to complement the surrounding residential location.</p>	<p>The proposed design, orientation of the building, floor layouts and balcony locations provide for good passive surveillance along Wattle Street and across to Anzac Park.</p> <p>The development is of a bulk and scale that fit comfortably into the overall scale of the anticipated future-built form in this location. It complies with the FSR with a minor variation to the height for the lift overrun and shade cloth. As such, the height, bulk, and scale of the proposed development will be well suited to this context of urban variety and will make a positive contribution to the streetscape character and urban form and scale.</p>	Yes



**ITEM 1 (continued)**

<p>c. New buildings within the Anzac Park Precinct which adjoin established residential areas are to provide a transition to these existing areas to maintain the amenity of adjoining residential land uses.</p>	<p>The articulated and fragmented building has been amended as recommended by the UDRP which further reduces the perceived bulk and height of the proposed development and the amenity impacts associated with the proposed built form. The proposed height is not considered to be responsible for any adverse external amenity impacts to neighbouring properties.</p>	
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**Part 9.3 - Car Parking**
Car Parking

The NSW RMS Guide to Traffic Generating Development parking rates are the same as Council's minimum car parking requirements:

0.6 to 1 space per one bedroom dwelling;  
 0.9 to 1.2 spaces per two bedroom dwelling;  
 1.4 to 1.6 spaces per three bedroom dwelling; and  
 1 visitor space per 5 dwellings.

The development will require:

Apartment Type	Minimum	Max	Provided	Compliance
1 bedroom (2)	1.2	2		
2 bedroom (2)	1.8	2.4		
3 bedroom (2)	2.8	3.2		
<b>Sub-total</b>	<b>5.8 (6)</b>	<b>7.6 (8)</b>	<b>6 spaces</b>	<b>Yes</b>
Visitor	1.2 (2)	1.2 (2)	2 spaces	Yes
<b>Total</b>	<b>8 spaces</b>	<b>10 spaces</b>	<b>8 spaces</b>	<b>Yes</b>

Concerns were raised that, with the proposed one-way driveway and ramp arrangement, vehicle waiting at the car entrance will block a vehicle exiting the site through the ramp and vice versa. In this regard, a passing bay at the entrance to the basement car park was required. Council's Development Engineer has reviewed the amended plans and revised traffic report by Terraffic Pty Ltd (Reference Number: 21026, Dated 22<sup>nd</sup> November 2021) and has advised:

**ITEM 1 (continued)**

*“A passing bay of 5.5m long at the car park entrance is now provided and a set of basic green/red traffic signal is also proposed that its system will give priority to entering traffic. In addition, a waiting bay is proposed in the basement car park that will include an induction loop that will trigger the green light in the basement when a car travels over the loop. At that time, the red light will appear at ground level. Such design is found to be acceptable.”*

It is noted that the landscaping in front of traffic signal may block the signal, as such **Condition 134** has been imposed to ensure that the traffic signal and sign is visible to driver entering the car park.

In addition, **Condition 135** has been imposed to ensure that the tandem parking is allocated to the one unit.

Bicycle Parking

The DCP states that: *in every new building, where the floor space exceeds 600m<sup>2</sup> GFA (except for dwelling houses and multi-unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof.”*

The proposal will have a GFA of 477m<sup>2</sup> therefore is not required to provide any bicycle space. However, two spaces have been provided in the basement area.

Part 7.2 Waste Minimisation and Management

The development involves the construction of a residential flat building, the applicant has submitted a Waste Management Plan (WMP). The WMP has been reviewed by Council's Waste Management Co-ordinator and is considered satisfactory.

Council's Officers have considered the collection of waste, with a garbage room in the basement.

Part 9.2 Access for People with Disabilities

The application includes an Access Report prepared by Assistive Technology Australia which states subject to compliance with the recommendations, the development can readily comply with the requirements of the BCA/DDA (Access for People with Disabilities).

The DCP 2014 requires provision of Adaptable Housing in developments with 10 or more units. This development proposes 6 dwellings. Therefore the provision of Adaptable Housing is not required.

**5.6 Planning Agreements OR Draft Planning Agreements**

There is no planning agreement or draft planning agreement applicable to this application.

**ITEM 1 (continued)**
**5.7 City of Ryde Section 7.11 - Development Contributions Plan 2020**

Council's current Section 7.11 Development Contributions Plan 2020 effective 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal. The contribution that are payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

Note: concession given for existing dwelling on site.

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$ 23,423.66
Open Space & Recreation Facilities	\$ 40,334.49
Transport Facilities	\$ 12,382.56
Plan Administration	\$ 1,142.11
<b>The total contribution is</b>	<b>\$ 77,282.82</b>

**Condition 29** has been imposed required payment before the issue of the Construction Certificate.

**5.8 Any matters prescribed by the regulation**
Environmental Planning and Assessment Regulation 2000

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with BCA and AS.

**6. The likely impacts of the development**

Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those requiring further consideration are discussed below.

Built Form

The development is consistent with the built form objectives envisaged for the area. It provides a suitable bulk and scale for a development of this size and provides a considerable contribution to additional housing in the area in a high-quality architectural design.

**ITEM 1 (continued)****Access and Traffic**

The application was accompanied by a Traffic and Parking Report prepared by Terrafic P/L Traffic and Parking Consultants. The report states:

*The traffic generation of the proposed development should be discounted by the traffic generation of the existing dwelling on the site. Based on the RMS' s traffic generation rate of 1 vehicle trip per dwelling, the existing site development would generate in the order of 1 vtph during the peak periods. To that end, the proposed development will only generate 3 additional vehicle trips during the peak periods.*

***Traffic Impacts of Proposed Development***

*It will be readily appreciated that the additional traffic generated by the proposed development is relatively minor (3vtph) which will not have any noticeable or unacceptable effect on the road network serving the site in terms of road network capacity or traffic-related environmental effect.*

*In the circumstances, it can be concluded that the proposed development has no unacceptable traffic implications.*

Council's Traffic Engineer has advised that the *proposed development has been estimated to generate up to four (4) peak hour vehicle trips to and from the site. Such a level of traffic generation represents 1 vehicle trip every 15 minutes, which is not expected to alter the current operational performance of the surrounding road network.*

Accordingly, from a traffic perspective the development will not result in any unacceptable traffic implications to the road network.

**Visual Privacy**

Whilst the proposal does not comply with building separation in accordance with the ADG requirement, the proposal minimise overlooking by orientating main living room windows and balconies to the front and rear of the site. Privacy screens have been provided to the rear balconies facing 89 Anzac Ave.

**Construction Impacts**

Construction impacts are controlled by Part 8.1 of the Ryde DCP 2014. Council's standard conditions of consent have been imposed to control the impact of the construction activities. See **Conditions 5 to 10, 14, 17-18, 46, 47, 70, 71 & 79.**

**7. Suitability of the site for the development**

The proposed development is considered to be a suitable development for the site, being permissible in the zone. As detailed earlier in this report, the site is constrained by its narrow width however it has been demonstrated that it is not possible to amalgamate with the adjoining site therefore consideration for the site to be

**ITEM 1 (continued)**

developed on its own have been taken into account when siting and designing the development. The development is consistent with the envisaged future character of the area and appropriately responds to the natural and built environmental assets and constraints of the site.

**8. The Public Interest**

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls. Where variations to the planning controls occur in terms of height and setbacks, the proposal has been designed to minimise any potential impact to adjoining properties. The development complies with the objectives of the planning controls.

**9. Public Notification and Submissions**Notification No. 1

The application was advertised and notified between the period of 13 July 2021 and 3 August 2021.

During this notification period Council received twelve (12) submissions objecting to the proposal and raised the following issues:

- Object to it being 4 storeys in height – should be 3 storeys to main the character of the area
- Parking and traffic, additional visitor parking should be provided as street parking already overburden, no allowance for electric vehicles
- Loss of privacy, sunlight and view
- Location of the bin area in basement – will not get the bins to the street on a regular basis.
- Construction impact & damage to foundations of adjoining buildings
- Site too narrow
- Fence needs replacing

Comments

- *Object to it being 4 storey – should be 3 storeys to maintain the character of the area. 4 storeys out of step with surrounding residence which are 3 storeys.*

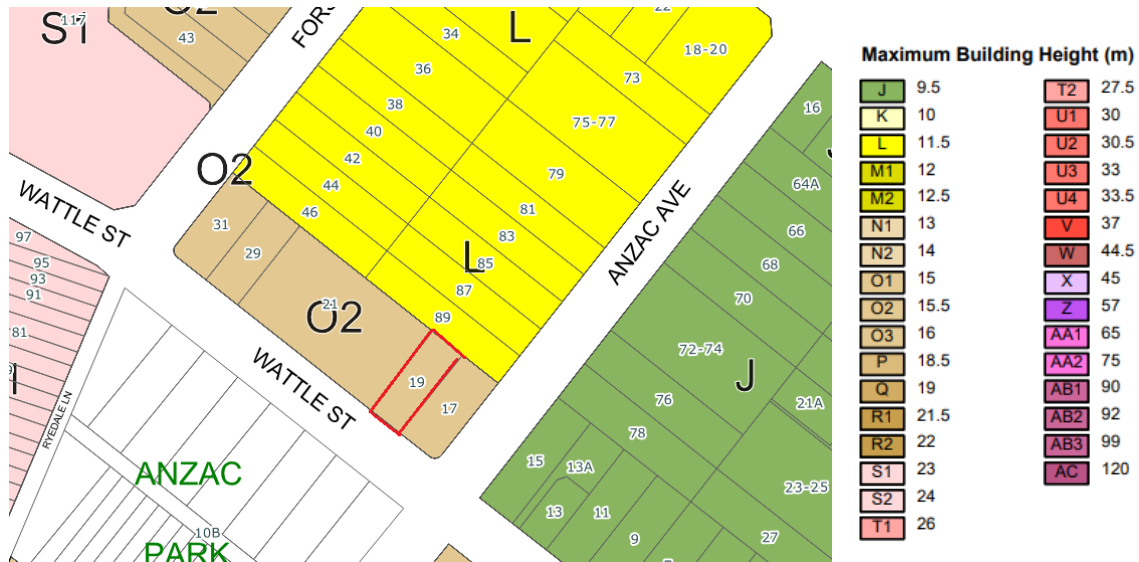
The height limit for the site is 15.5m. There are no controls stipulating the number of storeys allowed, only the height limit. The character of the area comprised of varies mix of building types such includes dwelling house, multi dwelling housing and residential flat buildings of varied architectural styles and ages.

Whilst it is acknowledged that the adjoining sites, 17 & 21 Wattle Street are 2 & 3 storeys respectively, the site allows for maximum height of 15.5m, which allows for 4



**ITEM 1 (continued)**

storeys. The proposal complies with the height except for the lift overrun and a minor section of the stairwell and shade cloth which are not visible from the public domain. The other 3 storey RFBs along Anzac Ave and Forster Street has a different height limit, being only 11.5m. **Figure 18** below illustrate the different height limit surrounding the site.



**Figure 18: Height limit map.**

- *Parking and traffic - There is never any street parking available, no charging facilities for electric vehicles.*

Council's Development Control Plan 2014 requires a minimum of 6 resident parking spaces and 2 visitor parking spaces; a total of 8 off street parking spaces to be provided. The development has provided a total of 8 spaces within the basement level, which is the minimum required. There is no requirement to provide more than the minimum and as West Ryde Station is in close proximity, public transport usage should be encouraged.

**Condition 135** has been imposed requiring 6 spaces to be allocated for residents and 2 visitor spaces.

There are no controls requiring electric charging station being provided in the development.

- *Loss of privacy, sunlight and view. Plus no shadow diagrams for 89 Anzac Ave and for the other months other than June.*

The proposal has been amended as per the UDRP recommendations to shift the rear section of the building more towards 21 Wattle so as to increase the setback to 17 Wattle Street. 21 Wattle Street has a driveway/parking area adjacent to the common boundary with the subject site, with their building setback 12.9m from the boundary. Overlooking to 21 Wattle Street is not an issue due to the good building separation.

**ITEM 1 (continued)**

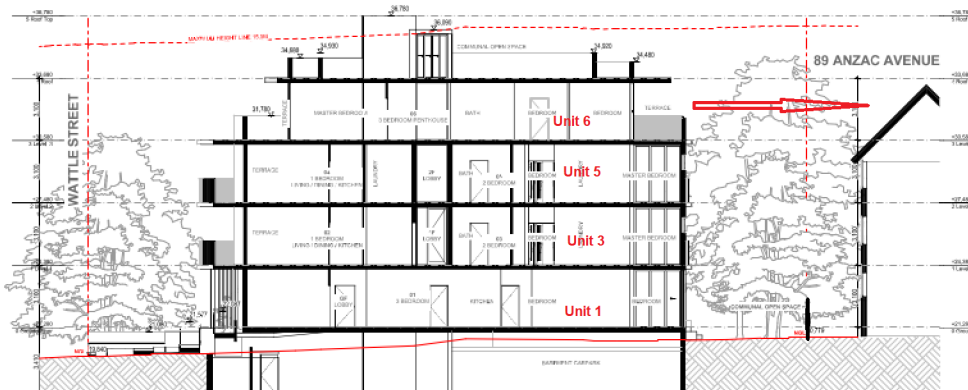


**Figure 19: 21 Wattle street well setback from the common boundary with the area used for parking and access.**

Given the narrowness of the site, it is not possible to provide the required 6m setbacks to the side boundaries, however sections of the setback to 17 Wattle Street has been increased from 2.75m to 3.35m with side windows being high light windows with window sill heights of 2m. This will prevent overlooking.

The rear setback complies with the required setback of 6m however the adjoining property at 89 Anzac Ave is only setback approx. 2.7m off the common boundary. 89 Anzac Ave have windows and balconies looking into the rear yard of the subject site. Units 1,3, 5 & 6 will have their rear balconies facing 89 Anzac Ave.

To protect the amenity to both the future residents of 19 Wattle Street and the residents of 89 Anzac Ave, dense landscaping with shrub and trees are proposed along the rear boundary. This will help screen and soften the development. In addition, the ground floor apartment (Unit 1) will not pose any overlooking concerns as their POS area is at grade. With the erection of a new 1.8m fence and landscaping, no overlooking from the rear ground floor apartment will occur. The 3<sup>rd</sup> floor apartment (Unit 6) is higher than 89 Anzac Ave and their rear balcony will over the roof of 89 Anzac Ave, as illustrated in **Figure 20** below.



**Figure 20: Section of the separation between rear balconies facing 89 Anzac side elevation.**

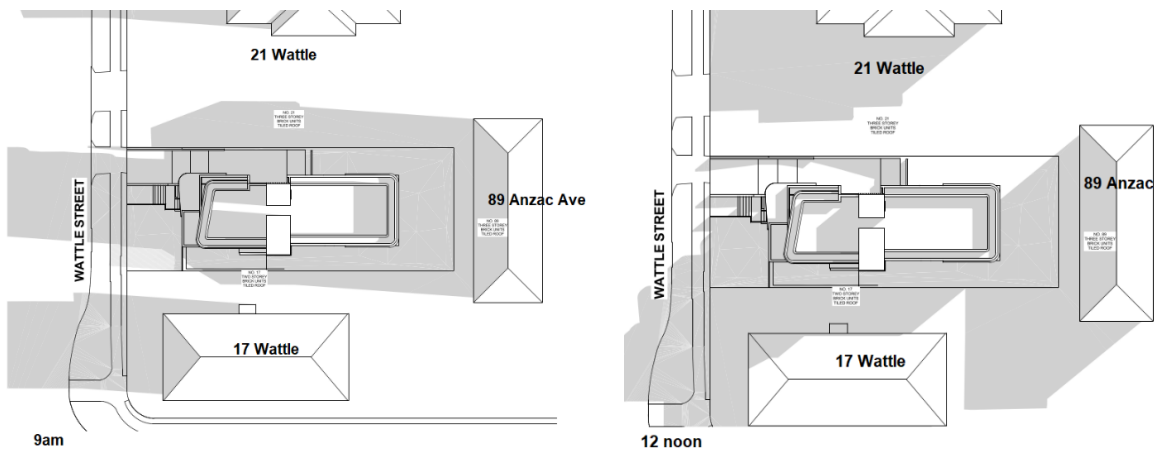
**ITEM 1 (continued)**

To minimise overlooking into the windows and balconies of 89 Anzac Ave from the balconies of Units 3 & 5, a privacy screen has been provided to prevent overlooking into the side windows of 89 Anzac Ave. To maintain sunlight into the units, the screen is only 2m in length starting from the eastern end of the terrace.

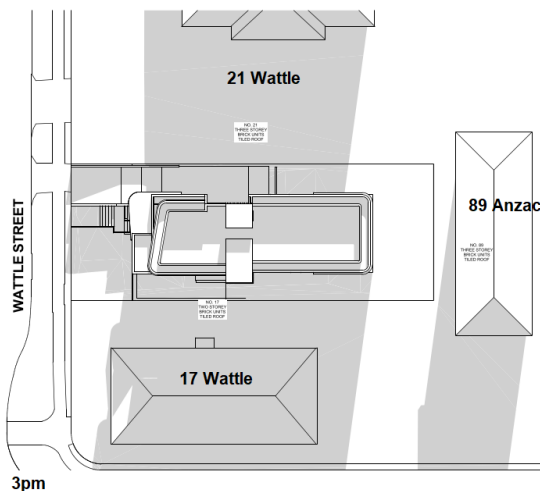
The concerns of reduced sunlight to 89 Anzac Ave is not warranted as 89 Anzac Ave is located north of the subject site as such the development will have no overshadowing impact to 89 Anzac Ave.

The site that will be most impacted by shadows is 17 Wattle Street which is south east of the site. The submitted shadow diagrams shows that 17 Wattle Street will benefit from the morning sun (9 am to midday). By midday, some of the site will be in shadow and by 3pm the existing building on site will be overshadowed by the development. The proposal is able to comply with the applicable overshadowing controls as 17 Wattle Street will receive the required 3 hours solar access on 21 June.

Shadow diagrams are not required to be provided for the summer months or equinox as 21 June is the winter solstice which is the worst case scenario.



**Figure 21: Shadow diagrams at 9am and 12 noon at mid winter.**



**Figure 22: Shadow diagram at 3pm.**

**ITEM 1 (continued)**

The concerns about loss of view is not warranted, the proposal is compliant in height, albeit the lift overrun. There are no iconic or distant views of water or skyline from the adjoining properties.

- *Construction impact & damage to foundations of adjoining buildings*

Council's standard conditions of consent have been imposed to control the impact of the construction activities. Similar to any major redevelopment work, some level of inconvenience/impact may result once the construction commences. However, to address the issue and to minimise traffic impact, **Conditions 18 & 47** have been imposed requiring submission of Construction Traffic Management Plan to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site. Also **Condition 6** has been imposed restricting the hours of building works, which is restricted to 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday. **Condition 35** has also been imposed requiring a dilapidation report for the adjoining site, 17 Wattle Street and 89 Anzac Ave to be submitted.

- *Site too narrow*

The issue of the site constraint (narrowness of the site) was a consideration and the preferred option would had been for site amalgamation with 17 Wattle Street. However 17 Wattle Street is owned by the Land and Housing Corporation who has advised that site amalgamation is not possible.

Therefore the Urban Design Review Panel was comfortable in considering development of this site on its own. Furthermore, the proposal is consistent with the R4 High Density Residential zone objectives that apply to the site.

- *Fence needs replacing*

New fencing of 1.8m is proposed to be provided and **Condition 56** has been imposing requiring any fencing to comply with Council' DCP and not to interfere with overland flow.

**Notification No 2.**

After submission of amended plans, the amendments were notified between the period of 11 October 2021 and 1 November 2021.

During this notification period Council received three (3) submissions objecting to the proposal and raised the following issues:

- Object to shifting of the building – block off their view from their kitchen
- Not enough visitor car parking

**ITEM 1 (continued)**

- Site too small for a 4 storey RFB
- Will overshadow 89 Anzac Ave
- Construction impact.
- Lift open directly to apartments – no foyer?
- Fence will need replacing.

Much of the 2<sup>nd</sup> round of notification raised the same issues as above (and addressed) in Notification no 1, except for the issue of shifting of the building – too close to their building (89 Anzac Ave) and the lift in Unit 6 opens directly to the apartment, no foyer.

- *Shifting of the building – too close to their building and block off view from their kitchen (89 Anzac).*

The amended plans shifted the rear option of the building 1m further to the north western boundary, closer to 21 Wattle Street. The rear setback to 89 Anzac Ave of 6m was not altered in the amendment and complies with the setback requirement under the Apartment Design Guide. The concern about loss of view from 89 Anzac Ave does not warrant any further redesign. Currently existing on site is a single storey dwelling with a garage and shed at the rear. Any redevelopment of the site for a development greater than 2 storey will unavoidably impact on the current “openness” of a single storey dwelling with a large rear yard. There are no iconic views looking to the south of the site.

- *Lift in Unit 6 opens directly to the apartment, no foyer*

Unit 6 is the top apartment (penthouse) and many penthouse apartments have direct lift access from their apartment. Council has no issue with the lift opening directly to the apartment. This issue does not warrant refusal of the application or amendment of the plans.

**10. Referrals**Internal Referrals:**Senior Development Engineer:**

Council’s Development Engineer has reviewed the amended plans and additional Traffic Report and has advised that the amendments have addressed the concerns of parking and stormwater management.

There are no objections to the proposed development with respect to the engineering components subject to conditions of consent (see **Conditions 41 – 44, 46, 76, 83- 84, 102, 104, 106 & 107.**



**ITEM 1 (continued)**  
**Landscape Architect:**

Council's Landscape Architect initially raised concerns about the two trees on the adjoining sites being impacted on and required the adjoining property's consent for the trees to be removed and concern about the height of the fence.

Since the initial comments, one of the trees (an exempt tree) has been removed and owner's consent for the removal of the other tree has been granted. This is considered satisfactory.

The proposed fence will be at a height of 1.8m as the basement ceiling is split into two, the area that extends to the boundary (outside the ground floor envelope) is fully underground, so it doesn't obstruct the flood path, while the part that is raised is only within the ground floor building footprint to comply with the flood levels. The area where it is raised is where the ground floor apartment entry, which will have the planter box next to it to screen/provide visual privacy. This is considered satisfactory.

Council's Landscape Architect has raised no objections to the proposal subject to **Condition 1(a)** for amended landscape plans to show amended details of the planter soil depth, turf details on Levels 1 & 3.

**City Works:****Public Domain:**

A referral was made to Council's Senior Public Domain Engineer, who has made the following comment:

*The site frontage on Wattle street lies within the West Ryde Town Centre precinct and is therefore subject to requirements specified with the Public Domain Technical Manual – Chapter 4: West Ryde as well as the Ryde Council Development Control Plan (DCP) 2014, Part 4.3 West Ryde Town Centre.*

*In general, Activation and Compliance have no objection to the development.*  
**Conditions 45, 49 – 54, 72 - 77, 85, 112 – 124.**

**Drainage Engineer:**

No objections were raised to the development subject to appropriate conditions of consent.

**Conditions 64 – 66, 105, 107, 109 & 110.**

**Traffic Engineer:**

A referral was made to Council's Senior Traffic Engineer, who has made the following comment:

**ITEM 1 (continued)**

*The proposed development has been estimated to generate up to four (4) peak hour vehicle trips to and from the site. Such a level of traffic generation represents 1 vehicle trip every 15 minutes, which is not expected to alter the current operational performance of the surrounding road network.*

*Traffic Department has no objection to the approval of this application. **Conditions 15-18, 47, 78 & 108.***

**Waste Officer:**

*Application for the development of a 4 storey residential complex of 6 apartments. Residents will be required to take their waste and recycling to the bin storage room which is located on the basement level under the driveway. The room is of adequate size to contain the 8 bins required. Bins will be taken to the kerbside the night prior to collection for servicing.*

*There is a separate 5m<sup>2</sup> bulky waste storage room located alongside the bin storage room. The building manager will be required to take the material up to the kerbside on the evening prior to the pre-booked household clean up.*

*The plans have been amended with a ramp from the ground floor lift to the street frontage. **Conditions 25, 67 – 69, 126, 127, 138 – 144.***

**11. Conclusion**

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

The proposal provides an opportunity to redevelop a highly constrained site with a contemporary residential apartment building that is generally consistent with the Apartment Design Guide and strategic intentions of the associated planning controls adopted for the locality by the Council.

The site is zoned R4 High Density Residential under Ryde LEP 2014 and the development results in one variation to the development standards contained in RLEP 2014 in respect to the overall height of the building.

The height exceedance is not considered to have an unreasonable impact to adjoining properties in terms of overshadowing or overlooking nor is the development out of the future character envisage for the area. Accordingly, given the circumstance of the case, the applicant has provided a Clause 4.6 variation which is supported.

The development generally complies with the relevant planning controls except for the building separation and setbacks. However, given the site constraint (narrow site – 13.4m wide), the proposal provides for acceptable amenity. The proposal has provided

**ITEM 1 (continued)**

setbacks as per the recommendation of the UDRP and the variations are not considered to adversely impact adjoining properties or the streetscape character of the area.

The development is recommended for approval subject to appropriate conditions of consent provided in **Attachment 1** of this report.

The reasons for approval are as follows:

1. The variation to the height control requested under Clause 4.6 of the RLEP is justified for the following reasons:
  - The development is consistent with the desired future character of the locality.
  - The development will not result in overshadowing that would adversely impact the adjoining properties.
  - The non-compliance in height does not result in an exceedance in the floor space ratio.
  - The breach in height is relatively minor and is not inconsistent with adjoining properties.
2. The proposal is consistent with the objectives of the R4 High Density zone under RLEP 2014. The development is also consistent with the development standards in RLEP 2014 with the exception of height.
3. The proposal results in breaches to the Apartment Design Guide in respect to building separation and setbacks. Despite the non-compliances, the development will still provide adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties.
4. The proposal is consistent with the desired future character of the area.
5. The proposal is not considered to create likely impacts on the residential amenity of adjoining properties.
6. The proposal is not contrary to the public interest.

**ITEM 1 (continued)****12. Recommendation**

Pursuant to Section 4.6 of the Environmental Planning and Assessment Act, 1979, the following is recommended:

- A. THAT the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary the height standard (Clause 4.3) in LEP 2014 has adequately addressed the matters in subclause (4) and will be in the public interest as it is consistent with the objectives of the development standard in Clause 4.3 and the objectives of the R4 High Density Zone of Ryde Local Environmental Plan 2014.
  
- B. THAT the Ryde Local Planning Panel, as the consent authority, grant consent to Development Application LDA2021/0228 for the construction of a residential apartment building development on land at No. 19 Wattle Street, West Ryde subject to the draft conditions contained in Attachment 1.

**ATTACHMENTS**

- 1 Draft Conditions of Consent
- 2 Clause 4.6 Report
- 3 Architectural Plans - subject to copyright provision

Report Prepared By:

**Sandra Mccarry**  
**Senior Town Planner**

Report Approved By:

**Madeline Thomas**  
**Senior Coordinator - Development Assessment**

**Sandra Bailey**  
**Manager - Development Assessment**

**Liz Coad**  
**Director - City Planning and Environment**

**ITEM 1 (continued)**  
**19 Wattle Street, West Ryde.**

**ATTACHMENT 1**

**GENERAL**

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Cover Sheet		
Basement Plan	23/11/2021	A099 Revision 4
Ground Floor Plan	23/11/2021	A100 Revision 4
Level 1 Floor Plan	03/11/2021	A901 Revision 4
Level 2 Floor Plan	03/11/2021	A902 Revision 4
Level 3 Floor Plan	03/11/2021	A903 Revision 4
Roof Plan	23/11/2021	A104 Revision 4
East & West Elevations	03/11/2021	A300 Revision 4
North & South Elevations	24/11/2021	A301 Revision 4
Sections	08/10/2021	A200 Revision 4
3D Height Limit	24/11/2021	A701
Building Comparison	24/11/2021	A305 Revision 4
Fence Elevations	23/12/2021	A703
Fence Plan & Details	23/12/2021	A702 & A704
Landscape Plan Sheet 1 & 2	28/06/2021 - A	5802
Planter Box Detail	23/11/2021	A202 Revision 4

Prior to the issue of a **Construction Certificate**, the following amendments shall be made;

(a) **Amended Landscaping Plan.** The landscaping plans are to be amended to include the following details:

- Turf on Structure. The Landscape Plan only details turf on deep soil. However, turf on structure is also to be shown on Levels 1 & 3. A construction detailed is required showing how soil depth and Finished Floor Levels are to be achieved on structure.
- Minimum Soil Standards. The Planter Box Detail by ADS shows Polystyrene filler. The depth of soil mix does not conform to the Apartment Design Guide requirements. The filler is to be deleted and the soil mix depth of minimum 500mm.



**ITEM 1 (continued)**

**ATTACHMENT 1**

- **BBQ facilities.** To improve the facilities of the communal open space, the Communal Open Space is to incorporate a BBQ/cooking area.

Details are to be submitted and approved by Council's Landscape Architect prior to the issue of the Construction Certificate.

**(b) Amend the Architectural plans to include:**

- **Retaining walls:** Any retaining walls along the boundaries which are needed for the raised planting beds on structures are to be shown and ensure any boundary fences on top of the retaining walls to be a maximum 1800mm above natural ground level.

- **Privacy Screen.** To minimise overlooking to the rear yard of 17 Wattle Street, the south east side elevation of Unit 6 rear terrace is to be provide with a fixed side privacy screen of 1.8m high and is to have no individual opening more than 30mm wide, and a total area of all openings that is no more than 30% of the surface area of the screen. Details of the screen is to be submitted and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

- **Storage cages.** Storage cages are to be provided above the carparking spaces No. 2, 3, 4, 6 & 7.

Details are to be submitted and approved by the Principal Certifier prior to the issue of a **Construction Certificate**.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.

3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 1214637M\_02 dated 1 October 2021.

4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and

**ITEM 1 (continued)**

**ATTACHMENT 1**

(b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

5. **Site Maintenance.** For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or become a repository for the leaving or dumping of waste.

6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

7. **Hoardings.**

(a) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

(b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

8. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

9. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

10. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

11. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (*Public Civil Works*) and Part 8.2 (*Stormwater and Floodplain Management*), except otherwise as amended by conditions of this consent.

12. **Public areas and restoration works** - Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with

**ITEM 1 (continued)**

**ATTACHMENT 1**

Council's standards and specifications, and DCP 2014 Part 8.5 Public Civil Works, to the satisfaction of Council.

13. **Public Utilities and Service Alterations /Utility Services** - The Applicant shall comply with the requirements (including financial costs) of the relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council, etc) in relation to any connections, works, repairs, relocation, replacement and/or adjustments to public infrastructure or services affected by the development with all costs associated with this alteration to be borne by the applicant.

All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the Applicant's expense.

All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works prior to commencement of construction.

14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (*Public Civil Works*), to the satisfaction of Council.

15. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

16. **Works on Public Roads.** Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

17. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 - 2009 and City of Ryde's Development Control Plan 2014: - Part 8.1: Construction Activities.

18. **Implementation of Construction Traffic Management Plan.** All construction works including demolition activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic

**ITEM 1 (continued)**

**ATTACHMENT 1**

management control must be undertaken by personnel having appropriate SafeWork NSW accreditation. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

**DEMOLITION CONDITIONS**

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

**19. Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:

- (a) Council must be notified of the following particulars:
  - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - (ii) The date the work is due to commence and the expected completion date
- (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.

**20. Work Zones and Permits.** Prior to the commencement of any demolition/construction works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

**21. Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

**22. Excavation**

- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

**ITEM 1 (continued)**

**ATTACHMENT 1**

23. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.
24. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
25. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
26. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
27. **Tip Dockets.** Tip Dockets identifying the type and quantity of waste disposed/recycled during demolition are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.
28. **Preliminary Site Investigation Report.** The development is to comply with the recommendations contained in the PSI Report prepared by Ei Australia dated 28 June 2021.

**PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

29. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:



**ITEM 1 (continued)**

**ATTACHMENT 1**

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$ 23,423.66
Open Space & Recreation Facilities	\$ 40,334.49
Transport Facilities	\$ 12,382.56
Plan Administration	\$ 1,142.11
<b>The total contribution is</b>	<b>\$ 77,282.82</b>

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in City of Ryde Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

30. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the **Construction Certificate**.

31. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

32. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)

**ITEM 1 (continued)**

**ATTACHMENT 1**

33. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

(a) Infrastructure Restoration and Administration Fee

34. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Certifying Authority prior to the issuing of the **Construction Certificate**.

35. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties (including any public place) that may be affected by the construction work namely 17 Wattle Street & 89 Anzac Ave. A copy of the survey is to be submitted to the Certifying Authority (*and Council, if Council is not the Certifying Authority*) prior to the release of the **Construction Certificate**.

36. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.

37. **Road and rail noise/vibration.** The development must be acoustically designed and constructed to meet the relevant provisions of Australian Standard AS 2107:2000 *Recommended design sound levels and reverberation times for building interiors*. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person.

38. **Residential Apartment Noise attenuation.** A qualified acoustical engineer with membership of the Association of Australasian Acoustical Consultants must certify that the building has been designed to minimise the noise intrusion from any internal or external noise source and when constructed achieve a 5 star rating under the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic rating Version 1.0. Details of compliance are to be submitted with the plans for Construction Certificate.

39. **Acoustic Report.** Compliance with the requirements and recommendations contained in the Acoustic Report prepared by Acoustic Logic dated 18/06/2021 Revision 2. Details indicating compliance with these requirements are to be submitted to the PCA prior to the relevant **Construction Certificate** being issued. Prior to the occupation of the development, a suitably qualified acoustic consultant is to verify that the development complies with these recommendations in the above report.

**ITEM 1 (continued)**

**ATTACHMENT 1**

40. **Design verification.** Prior to a Construction Certificate being issued with respect to this development, the Principle Certifying Authority is to be provided with a written Design Verification from a registered architect that has overseen the design. This statement must include verification from the registered architect that the plans and specification achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*. This condition is imposed in accordance with Clause 143 of the *Environmental Planning and Assessment Regulation 2000*.

41. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

42. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to the kerb and gutter on Wattle Street, generally in accordance with the plans by Civil & Stormwater Engineering Services Pty Ltd, Project No.: 210416, Drawing No.: 101 to 105, Issue No.: D, Dated 12/11/2021, subject to any variations marked in red on the approved plans.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

43. **Stormwater Management - Onsite Stormwater Detention.** In accordance with Council's community stormwater management policy, an onsite stormwater detention (OSD) system must be implemented in the stormwater management system of the development.

As a minimum, the OSD system must;

- a) provide site storage requirement (SSR) and permissible site discharge (PSD) design parameters complying with Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*).

**ITEM 1 (continued)**

**ATTACHMENT 1**

- b) incorporate a sump and filter grate (trash rack) at the point of discharge from the OSD system to prevent gross pollutants blocking the system or entering the public drainage service,
- c) ensure the OSD storage has sufficient access for the purpose of ongoing maintenance of the system, and
- d) ensure the drainage system discharging to the OSD system is of sufficient capacity to accommodate the 100 year ARI 5 minute storm event.

Detailed engineering plans and certification demonstrating compliance with this condition & Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) are to be submitted with the application for a Construction Certificate.

**44. Stormwater Management - Pump System.** The basement pump system must be dual submersible and shall be sized and constructed in accordance with Section 9.3 of AS 3500.3.

The wet well must be designed and constructed in accordance with section 9.3 of AS 3500.3, except that the sump volume is to be designed to accommodate storage of runoff accumulating from the 100yr ARI 3 hour storm event, in the event of pump failure as per the requirements of Council's DCP - Part 8.2 (*Stormwater and Floodplain Management*).

Direct connection of the pumps rising main to the kerb will not be permitted. The rising main must discharge to the sites drainage system, upstream of the onsite detention system (if one is provided) or any rainwater tank which is utilised for irrigation only.

Pump details and documentation demonstrating compliance with this condition are to be submitted in conjunction with the Stormwater Management Plan for the approval of the Certifying Authority, prior to the release of any Construction Certificate for construction of the basement level.

**45. Road and Public Domain Works.** To ensure the serviceability of infrastructure adjacent the development property is consistent with the life of the development and provides safe and efficient access to the site, the following Public Domain works are required;

- a) Construction of a new concrete vehicular crossing fronting the approved vehicle entry.
- b) Construction of a new concrete footpath spanning the site frontage. The footpath width and grade must be in accordance with the DCP Part 8.5 (*Public Civil Works*) Section 2.3. If there is an existing footpath in the vicinity of the site which is variable to these specifications, the applicants is to confer with Council's Civil Works section for directions as to the appropriate footpath specifications.
- c) Reinstatement of damaged sections of footpath, kerb and gutter.

**ITEM 1 (continued)**

**ATTACHMENT 1**

d) Removal of any existing footpath and gutter crossover which is not fronting an approved access point and the reinstatement of grass verge, concrete kerb, gutter and footpath in this region.

In accordance with Section 138 of the Roads Act, detailed engineering plans prepared by a qualified and experienced civil engineer, complying with the specifications outlined in Council's DCP 2014 Part 8.5 (*Public Civil Works*) must be submitted and approved by Council prior to the issue of the Construction Certificate.

Engineering plans assessment and inspections fee associated with this work are payable in accordance with Council's Management Plan prior to approval being issued by Council.

**46. Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual "*Managing Urban: Soils and Construction*" by NSW Department – Office of Environment and Heritage and must contain the following information;

- Existing and final contours
- The location of all earthworks, including roads, areas of cut and fill
- Location of all impervious areas
- Location and design criteria of erosion and sediment control structures,
- Location and description of existing vegetation
- Site access point/s and means of limiting material leaving the site
- Location of proposed vegetated buffer strips
- Location of critical areas (drainage lines, water bodies and unstable slopes)
- Location of stockpiles
- Means of diversion of uncontaminated upper catchment around disturbed areas
- Procedures for maintenance of erosion and sediment controls
- Details for any staging of works
- Details and procedures for dust control.

The ESCP must be submitted with the application for a Construction Certificate. This condition is imposed to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

**47. Construction Traffic Management Plan.** For all construction works including demolition activities, a Construction Traffic Management Plan (DCTMP) including any traffic control plans (TCP) shall be prepared by a suitably qualified traffic engineer. This document shall be submitted to and approved by Council prior to the issue of any Construction Certificate.



**ITEM 1 (continued)**

**ATTACHMENT 1**

**NOTE:** This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DCTMP is intended to minimise impact of demolition and construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

48. **Compliance with Access Report.** The development is to comply with the requirements contained in the Statutory Compliance Report prepared by DPC dated 20/09/2021.

49. **Public domain improvements.** The public domain is to be upgraded along the Wattle Street frontage of the development site in accordance with the City of Ryde Public Domain Technical Manual Chapter 4 – West Ryde. The works shall include paving, lighting upgrade works poles, street tree planting and road pavement works, and must be completed to Council's satisfaction at no cost to Council.

A public domain plan for the following works shall be submitted to, and approved by Council's City Works Directorate, prior to the issue of the relevant Construction Certificate.

(a) Footpath paving as specified in the condition of consent for public infrastructure works.

(b) Street trees to be provided in accordance with the West Ryde Street Tree Master Plan. The designated species are Crepe Myrtle for Wattle Street. Street trees must be contained within tree pits in accordance with Council's requirements.

**Note:** In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with any existing fixtures such as street lighting poles, utilities and driveway accesses. Existing street light poles and the proposed driveway location will have priority over the positioning of street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.

(c) The existing street lighting servicing the site frontage shall be upgraded to LED luminaires. The new street lighting using LED luminaires are to be designed and installed in accordance with Australian Standard AS1158:2020 Lighting for Roads and Public Spaces, with vehicular luminance category V5 and pedestrian luminance category P3, or their specified equivalents. Street lighting will remain on the Ausgrid street lighting network.

Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant and submitted to, and approved by Council's City Works & Infrastructure prior to lodgement of the scheme with Ausgrid for their approval.

**ITEM 1 (continued)**

**ATTACHMENT 1**

50. **Public Infrastructure Works** – Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council’s satisfaction at no cost to Council.

Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council’s City Works Directorate prior to the issue of the Construction Certificate. The works shall be in accordance with City of Ryde DCP 2014 Part 8.5 - Public Civil Works, and DCP 2014 Part 8.2 - Stormwater Management, where applicable.

The drawings shall include plans, sections, existing and finished surface levels, drainage pit configurations, kerb returns, existing and proposed signage and linemarking, and other relevant details for the new works.

The Applicant must submit, for approval by Council as the Road Authority, full design engineering plans and specifications for the following infrastructure works:

- (a) The full reconstruction of half road width along the Wattle Street frontage of the development site in accordance with the City of Ryde DCP 2014 *Part 8.5 - Public Civil Works*, Clause 1.1.4 – *Constructing Half Road*.
- (b) The construction of new kerb and gutter along the Wattle Street frontage of the development site.
- (c) Construction of full width granite footway along the Wattle Street frontage of the development site in accordance with the City of Ryde Public Domain Technical Manual Chapter 4 – West Ryde.
- (d) Reconstruction of adjoining concrete footway as necessary to ensure the provision of smooth transitions between the existing adjacent concrete footways and the new granite footway along the development site frontage.
- (e) Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- (f) Signage and linemarking details.
- (g) Relocation of the two existing utility access pits within the proposed driveway extents and directly adjacent to it. The utility pits must be located away from the proposed driveway.
- (h) The relocation/adjustment of any other public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.

**Notes:**

**ITEM 1 (continued)**

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1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards Enforcement*". A checklist has also been prepared to provide guidance, and is available upon request to Council's City Works Directorate.
4. City of Ryde standard drawings for public domain infrastructure assets are available on the Council website. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.

51. **Vehicle Footpath Crossing and Gutter Crossover** – A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life that is consistent with that of the development, and that it is also compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with City of Ryde Development Control Plan 2014 Part 8.3 *Driveways* and Part 8.5 - *Public Civil Works* and Australian Standard AS2890.1 – 2004 *Offstreet Parking*.

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath crossing and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover.

The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included.

All grades and transitions shall comply with Australian Standard AS 2890.1-2004 *Offstreet Parking* and Council's specifications. The new crossing shall be 5m wide, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

**ITEM 1 (continued)**

**ATTACHMENT 1**

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted to the Principal Certifier, for the application of the Construction Certificate.

**52. Public Domain Works – Defects Security Bond** - To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works in the road reserve following completion of the development. The defects liability period shall commence from the date of issue by Council, of the Compliance Certificate for the External Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period. A bond in the form of a cash deposit or Bank Guarantee of \$40,000 shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months defects liability period.

**53. Engineering plans assessment and works inspection fees** – The applicant is to pay to Council fees for assessment of all engineering and public domain plans and inspection of the completed works in the public domain, in accordance with Council's Schedule of Fees & Charges at the time of the issue of the plan approval, prior to such approval being granted by Council.

**Note:** An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the public domain works.

**54. Anticipated Assets Register - Changes to Council Assets** - In the case that public infrastructure improvements are required, the developer is to submit a listing of anticipated infrastructure assets to be constructed on Council land as part of the development works. The new elements may include but are not limited to new road pavements, new Multi-Function Poles (MFPs), new concrete or granite footways, new street trees and tree pits, street furniture, bus shelters, kerb and gutter and driveways. This information should be presented via the Anticipated Asset Register file available from Council's Assets and Infrastructure Department. The listings should also include any assets removed as part of the works.

The Anticipated Asset Register is to assist with council's future resourcing to maintain new assets. There is potential for the as-built assets to deviate from the anticipated asset listing, as issues are resolved throughout the public domain assessment and Roads Act Approval process. Following completion of the public infrastructure works associated with the development, a Final Asset Register is to be submitted to Council, based upon the Public Domain Works-As-Executed plans.

**ITEM 1 (continued)**

**ATTACHMENT 1**

55. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Certifying Authority prior to the release of the **Construction Certificate**.

56. **Fencing.** Any boundary fencing shall be erected in such a manner as not to interfere with the natural flow of ground and surface water to the detriment of any other party.

Fencing is to be in accordance with Council's DCP 2014: Part 3.3 – Dwelling Houses and Dual Occupancy (attached) – Section 2.16 - Fences. Please note: the front return fence (return fence is the fence between the front fence and the front of the building) is to be no higher than 900mm. Details of compliance are to be provided in the plans for the **Construction Certificate**. All new fencing is to be at the cost of the developer/owner of 19 Wattle Street.

57. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

58. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifying Authority that arrangements have been made for:

(i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

And

(ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in Section 372Q of the Telecommunications Act).

59. **Soil Depth over Structures.** Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Apartment Design Guide. Information verifying that the development complies with these requirements to be provided on the Construction Certificate plans.



**ITEM 1 (continued)**

**ATTACHMENT 1**

60. **Irrigation.** An automatic watering system is to be supplied to all landscape areas including common areas, private open spaces to ensure adequate water is available to lawns and vegetation. Irrigation systems shall be fully automated and capable of seasonal adjustments. Details are to be submitted prior to the issue of Construction Certificate.

61. **Storage.** Each residential unit is to be provided with the minimum internal storage area as required by the Apartment Design Guide. Stage cage can be provided above the car spaces for storage in the basement. Details of the location of the storage and dimensions of the storage areas are to be provided on the Construction Certificate plans. The architect is to verify in writing that the development complies prior to the issue of the Construction Certificate.

62. **Vehicular entry.** The vehicular entries are to have high quality finishes and detailing to the walls and ceiling. Service ducts or pipes are to be covered and not visible from any public domain. Details demonstrating compliance is to be submitted on the Construction Certificate plans.

63. **Ventilation of Basement:** The basement storage areas must be provided with an adequate system of natural or mechanical ventilation complying with Building Code of Australia. Any ventilation screens are to be integrated into the façade and landscape design. Details to be submitted to the PCA prior to the issue of the **Construction Certificate.**

64. **Flooding - Flood and Overland Flow Protection.** The property has been identified as being susceptible to flooding and overland flow during large storm events. In accordance with the floodplain management controls started within Council's DCP Part 8.2 (Stormwater and Floodplain Management), the following measures must be implemented in the development.

A certificate from a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, shall be submitted to the Principal Certifying Authority stating compliance with this condition prior to the issue of the Construction Certificate for the following items:

- a) The applicant shall comply with the flood recommendations provided in the Flood Study Report (Issue B) prepared by ACE Civil Stormwater Services Pty Ltd dated April /2021 and reviewed 28 September 2021.
- b) The habitable floor levels of all dwellings encompassed under this approval must not be constructed less than the approved {Flood Study Report (Issue B) prepared by ACE Civil Stormwater Services Pty Ltd dated April 2021, reviewed on 28 September 2021.
- c) All electrical connections and flood sensitive equipment shall be located above the 1% AEP (100 year ARI) flood level plus 500 mm freeboard.

Where it is not practical and feasible to install the equipment above the 1% AEP (100 year ARI) flood level plus 500 mm freeboard, the installations shall

**ITEM 1 (continued)**

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generally be in accordance with the recommendations in ABCB Construction of Buildings in Flood Hazard Areas (2012) Section C2.9 - Requirements for Utilities.

d) All fencing shall be constructed in a manner that does not affect the flow of flood waters so as to detrimentally change flood behaviour or increase flood levels on adjacent properties.

To this end, any fencing angled to the anticipated overland flowpath must incorporate either louvres, open type pool fencing, frangible screen, battens or floodgate system, at the base of the fence, extending from the finished surface level up to the 1% AEP (100 year ARI) flood level plus 300 mm freeboard (minimum 300 mm from the ground).

e) All basement carpark areas shall be designed to resist floodwater ingress for up to the Probable Maximum Flood (PMF) event. This includes protection of lifts, stairwells, ventilation shafts and other components which may otherwise create a water ingress risk.

A certificate from a suitably qualified Chartered Structural Engineer (registered on the NER of Engineers Australia), or equivalent, shall be submitted to the Principal Certifying Authority stating compliance with this condition prior to the issue of the Construction Certificate for the following items:

a) All structures subject to flooding and overland flows must be constructed of flood compatible building components below the 1% AEP (100 year ARI) flood plus 500 mm freeboard.

b) All structures subject to flooding and overland flows must be structurally designed to withstand the forces of floodwaters having regard to hydrostatic pressure, hydrodynamic pressure, the impact of debris and buoyancy forces up to the Probable Maximum Flood (PMF) event.

65. **Stormwater - Council Drainage - Reflux Valve** - A design certificate from a suitably qualified Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Construction Certificate, confirming that the site drainage outlet pipe has been designed with a reflux valve in order to stop any backwater effect from Council's stormwater system for events up to the 1% AEP (100 year ARI).

66. **Stormwater - Drainage Design Submission** - Engineering drawings prepared by a Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng) are to be submitted to, and approved by Council's City Works Directorate for the proposed drainage works in accordance with Council's DCP (2014) Part 8.2 Stormwater and Floodplain Management Technical Manual, prior to the issue of the Construction Certificate.

The design submission shall address the following:

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- a) A drainage system layout plan and structural details shall be drawn at a scale of 1:100, 1:200 or 1:250 and shall show the location of drainage pits and pipe and any other information necessary for the design and construction of the drainage system (i.e. utility services).
- b) A drainage system longitudinal section shall be drawn at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20 vertically and shall show the underground channel and pipe size, class and type, pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline chainages, pipeline grade, hydraulic grade line and any other information necessary for the design and construction of the drainage system (i.e. utility services).
- c) The location and as-built information (including dimensions and invert levels) of the existing Council kerb inlet pit as shown on {Stormwater Plans prepared by ACE Civil Stormwater Services P/L Drawing No. 103, (Project No. 210416, Revision D, 12 November 2021)} is to be confirmed by a suitably qualified surveyor. This shall be incorporated into the drainage engineering drawings.
- d) Stormwater Management Plan (Issue A), prepared by ACE Civil Stormwater Services Pty Ltd dated 30/06/2021.
- e) Special details including non-standard pits, pit benching and transitions shall be provided on the drawings at scales appropriate to the type and complexity of the detail being shown.
- f) The drainage system layout plan shall be documented on a detailed features survey plan that describes all existing structures, utility services, vegetation and other relevant features

67. **Waste.** Any changes to the LDA2021/228 Revision 04 plans dated 8/10/21 which were utilised to evaluate the waste collection by Council, have to be approved by the Waste Department at the City of Ryde Council before the issue of a Construction Certificate to ensure the waste collection is not affected.

68. **Waste.** All waste storage areas which have a doorway must be wide enough to allow the bins allocated to the property or access for larger furniture items for bulky waste storage areas, to fit through opening including the door.

- 240L Bins – width 0.6m, depth 0.8m, height 1.1m
- Safe easy access must be provided for waste collection vehicles to service the waste containers. Details demonstrating how safe access will be achieved must be approved by the City of Ryde Council prior to the issue of any Construction Certificate
- Two separate receptacles must be provided inside each dwelling to store up to two days worth of waste and recyclables awaiting transfer to the communal bin disposal areas to ensure source separation of recyclables

69. **Garbage and recycling rooms.** All garbage and recycling rooms must be constructed in accordance with the following requirements:

**ITEM 1 (continued)**

**ATTACHMENT 1**

- (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
- (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
- (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
- (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
- (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
- (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
- (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
- (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
- (i) The room must be provided with adequate artificial lighting; and
- (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning
- (k) Garbage and recycling bins must always be stored on-site between collections.
- (l) All waste storage areas must be maintained in a clean and tidy condition at all times
- (m) All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access”
- (n) Staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing.
- (o) The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

**70. Site Sign**

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- a. A sign must be erected in a prominent position on site, prior to the commencement of construction:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- b. Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**71. Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

**72. Notice of Intention to Commence Public Domain Works –** Prior to commencement of the public domain works, a *Notice of Intention to Commence Public Domain Works* shall be submitted to Council's City Works Directorate. This Notice shall include the name of the Contractor who will be responsible for the construction works, and the name of the Supervising Engineer who will be responsible for providing the certifications required at the hold points during construction, and also obtain all Road Activity Permits required for the works.

**Note:** Copies of a number of documents are required to be lodged with the Notice; no fee is chargeable for the lodgement of the Notice.

**73. Notification of adjoining owners & occupiers – public domain works -** The Applicant shall provide the adjoining owners and occupiers written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

**74. Pre-construction inspection -** A joint inspection shall be undertaken with Council's Engineer from City Works Directorate prior to commencement of any



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public domain works. A minimum 48 hours' notice will be required when booking for the joint inspection.

**75. Pre-Construction Dilapidation Report** - To ensure Council's infrastructures are adequately protected a pre-construction dilapidation report on the existing public infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable.

- (a) Road pavement,
- (b) Kerb and gutter,
- (c) Footpath,
- (d) Drainage pits,
- (e) Traffic signs, and
- (f) Any other relevant infrastructure.

The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to any work commencing.

All fees and charges associated with the review of this report shall be in accordance with Council's Schedule of Fees and Charges and shall be paid at the time that the Dilapidation Report is submitted.

**76. Road Activity Permits** - To carry out work in, on or over a public road, the Consent of Council is required as per the *Roads Act 1993*. Prior to the commencement of the relevant works and considering the lead times required for each application, permits for the following activities, as required and as specified in the form "*Road Activity Permits Checklist*" (available from Council's website) are to be obtained and copies submitted to Council with the *Notice of Intention to Commence Public Domain Works*.

a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.

b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**

c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or

**ITEM 1 (continued)**

**ATTACHMENT 1**

across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.

d) **Elevated Tower, Crane or Concrete Pump Permit** - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.

e) **Crane Airspace Permit** - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.

f) **Hoarding Permit** - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.

g) **Skip Bin on Nature Strip** - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

**77. Temporary Footpath Crossing** - A temporary footpath crossing, if required, must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

**78. Ryde Traffic Committee Approval** - A plan showing details of the proposed signage and line marking, and/or traffic devices including pedestrian refuge, pedestrian crossing or LATM measures, shall be submitted to the Council and approved by the Ryde Traffic Committee prior to the installation of any traffic devices, signage and linemarking.

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79. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

80. **Proposed Property Addressing.** Proposed addressing for the new development must have been lodged with Council, prior to the commencement of construction.

**DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

81. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

82. **Noise management plan** - Where demolition or construction activities are likely to cause significant noise or vibration (eg. jackhammering, rock breaking or impact piling) a noise management plan must be prepared by a suitably qualified acoustical consultant and be submitted to the Principal Certifying Authority before the work commences. The plan must be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009) and include:

- a. Identification of nearby affected residences or other sensitive receivers.
- b. An assessment of the expected noise impacts.
- c. Details of the work practices required to minimise noise impacts.
- d. Noise monitoring procedures.
- e. Procedures for notifying nearby affected residents.
- f. Complaints management procedures.

83. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Civil & Stormwater Engineering Services Pty Ltd, Project No.: 210416, Drawing No.: 101 to 105, Issue No.: D, Dated 12/11/2021, submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

84. **Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction"

**ITEM 1 (continued)**

**ATTACHMENT 1**

by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

**85. Hold Points during construction - Public Domain** – Council requires inspections to be undertaken by a Chartered Civil Engineer (registered on the NER of Engineers Australia), for the public domain, at the hold points shown below.

The Applicant shall submit to Council's City Works Directorate, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

- a) Prior to the commencement of construction and following the set-out on site of the position of the civil works to the levels shown on the approved civil drawings.
- b) Upon excavation, trimming and compaction to the subgrade level - to the line, grade, widths and depths, shown on the approved civil engineering drawings.
- c) Upon compaction of the applicable sub-base course.
- d) Upon compaction or construction of any base layers of pavement, prior to the construction of the final pavement surface (e.g. prior to laying any pavers or asphalt wearing course).
- e) Upon installation of any formwork and reinforcement for footpath concrete works.
- f) Final inspection - upon the practical completion of all civil works with all disturbed areas satisfactorily restored.

**86. Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

**87. Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

**88. Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:

- a. Fill is allowed under this consent;
- b. The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- c. the material is reused only to the extent that fill is allowed by the consent.

**ITEM 1 (continued)**

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89. **Construction materials.** All materials associated with construction must be retained within the site.

90. **Site Facilities**

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

91. **Site maintenance**

The applicant must ensure that:

- a. approved sediment and erosion control measures are installed and maintained during the construction period;
- b. building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- c. the site is clear of waste and debris at the completion of the works.

92. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

93. **Tip Dockets.** Tip Dockets identifying the type and quantity of waste disposed/recycled during construction are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.

94. **Maintenance.** The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.

95. **Tree Removal.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Redgum Horticultural dated 29/03/2021 the following trees on the adjoining sites are to be removed after as consent to remove has been given by the adjoining property owner:

Tree No.	Species "Common name"	Notes
2	<i>Pistachio chinensis</i> (Chinese Pistachio)	In adjoining property 21 Wattle Street

96. **Tree works – Australian Standards.** All tree work must be carried out by a qualified and experienced Arborist with a minimum of AQF level 3 in Arboriculture with NSW Work Cover Code of Practice for Amenity Tree Industry (1998) and AS4373 Pruning of amenity trees (2007).



**ITEM 1 (continued)  
PRIOR TO OCCUPATION CERTIFICATE**

**ATTACHMENT 1**

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

97. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 1214637M\_02 dated 1 October 2021.

98. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

99. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

100. **Residential Apartment Noise Attenuation.** A AAAC 5 Star Certificate must be submitted by a qualified member of the Association of Australasian Acoustical Consultants (AAAC) demonstrating that the construction of the building including internal walls and floors ensures that all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems as well as noise generated between residential units has sufficient acoustical attenuation. Details of compliance must be submitted to the Principal Certifying Authority before the issue of any **Occupation Certificate**.

101. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney

**ITEM 1 (continued)**

**ATTACHMENT 1**

Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

102. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

103. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

104. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard for the relevant systems and are to be to the satisfaction of Council. To assure Council the construction of the stormwater management system has been completed, stormwater Works-As-Executed plans and certification of the system are to be submitted to Council with a completed "*Application Form for Endorsement of Title Encumbrances*" (available from Council's website). The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

105. **Restriction as to User - Floodway.** A restriction as to user is to be placed on the property title to prevent any works which would result in the alteration of the ground surface level or impose on overland flow due to stormwater runoff in the 100ARI, such to adversely impact flood protection of the approved dwelling or have an adverse impact on neighbouring properties. The terms of the restriction shall

**ITEM 1 (continued)**

**ATTACHMENT 1**

be generally in accordance with Council's current standard terms for provision for overland flow and to the satisfaction of Council. To assure Council the completed development works are consistent with the approved development and associated flood conditions, Works-As-Executed plans and/ or engineering certification related to any flood mitigation measures are to be submitted to Council with a completed "*Application Form for Endorsement of Title Encumbrances*" (available from Council's website). The covenant must be registered on the title prior to the release of any Occupation Certificate for the development works.

**106. Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
- b) Certification from an Engineer specialising in Flood and Overland Flow analysis that the finished surface levels and the habitable floor levels have been constructed in accordance with this development consent, that the overland flow path has been maintained as designed and that the requirements of the condition "*Flood and Overland Flow Protection*" have been satisfied.
- c) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- d) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- e) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).

**ITEM 1 (continued)**

**ATTACHMENT 1**

f) Compliance certificate from Council confirming that all external works in the public road reserve and alteration to Council assets located in the property have been completed to Council's satisfaction.

**107. On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at 1 Pope Street – Ryde (Top Ryde City Shopping Centre).

**108. Parking Area Linemarking and Signage.** To ensure the safe and efficient circulation of traffic and access to parking, directional signage, traffic control linemarking and signs must be installed in the developments parking area. The location and specifications of these measures must be in accordance with AS 2890.1, must be based on Traffic Engineering principals and must be located under the guidance of a suitably qualified Traffic Engineer experienced in traffic safety. Certification that these measures have been implemented must be provided to the Accredited Certifier prior to the issue of an Occupation Certificate for any part of the development requiring use of the parking area.

**109. Positive Covenant - Overland Flow** - A positive covenant shall be created for the existing overland flow path through the subject site, under Section 88E of the Conveyancing Act 1919. All associated costs shall be borne by the applicant.

This is to place a restriction on the title that the overland flow path and flood storage areas are maintained and kept free of debris/weed to allow unobstructed passage of overland flow of water through the site and underneath the residence. The new buildings shall not have the subfloor area enclosed or utilised for storage.

The wording of the Instrument shall be submitted to, and approved by Council's City Works Directorate prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building.

**110. Flooding – Engineering Compliance Certificate** – A certificate from a suitably qualified Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Occupation Certificate,

**ITEM 1 (continued)**

**ATTACHMENT 1**

confirming that all requirements of condition “*Flooding - Flood and Overland Flow Protection*” have been satisfied.

The qualified and practising Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng) shall have experience in the area respective of the certification unless stated otherwise.

**111. Restoration – Supervising Engineer’s Certificate** - Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council’s standards and specifications, and DCP (2014) Part 8.5 Public Civil Works, or the Roads and Maritime Services’ standards and specifications, where applicable.

**112. Signage and Linemarking – External.** Any proposed signage and linemarking within Council’s Public Domain requires a plan to be prepared by a suitably qualified traffic engineering consultant and submitted to Council for endorsement by Ryde Traffic Committee and subsequent approval by Council, prior to the issue of any Occupation Certificate.

This plan is to show “NO PARKING 5AM – 11AM WEDNESDAYS AND PUBLIC HOLIDAYS” signposting restrictions along the Wattle Street frontage to enable unimpeded access for Council’s 11m waste vehicle for kerbside collection on waste collection day(s).

**Note:** The applicant is advised that the plan will require approval by the Ryde Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process.

**113. Signage and Linemarking (External) – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by Council. These works are to be undertaken prior to the issue of any Occupation Certificate.

**114. Vehicle Footpath Crossing and Gutter Crossover – Construction** - The proposed vehicle footpath crossing and gutter crossover shall be constructed prior to the issue of any Occupation Certificate at no cost to Council. Works may include the removal of any redundant vehicle footpath crossing and gutter crossover and reinstatement of kerb and gutter and restoration of road pavement.

Any adjustment or relocation of underground utilities as a result of the driveway construction must be carried out in accordance with the requirements of the utility authority. Minimum cover requirements of utility authorities must be maintained.



**ITEM 1 (continued)**

**ATTACHMENT 1**

**115. Public Domain Improvements and Infrastructure Works – Completion.**

All public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.

**116. Restoration – Supervising Engineer's Certificate.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.

**117. Compliance Certificates – Street Lighting.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a *Certificate of Compliance - Electrical Work (CCEW)* from the Electrical Contractor, and certification from a qualified Electrical Engineering consultant confirming that the street lighting in the public domain has been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

**118. Compliance Certificate – External Landscaping Works** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, certification from a qualified Landscape Architect confirming that the public domain landscaping works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

**119. Public Domain Works-as-Executed Plans** – To ensure the public infrastructure works are completed in accordance with the approved plans and specifications, Works-as-Executed (WAE) Plans shall be submitted to Council for review and approval. The WAE Plans shall be prepared on a copy of the approved plans and shall be certified by a Registered Surveyor. All departures from the Council approved details shall be marked in red with proper notations. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.

In addition to the WAE Plans, a list of all infrastructure assets (new and improved) that are to be handed over to Council shall be submitted in a form advised by Council. The list shall include all the relevant quantities in order to facilitate the registration of the assets in Council's Asset Registers.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**120. Registered Surveyor Final Certificate** – Upon completion of all construction works, and before the issue of any Occupation Certificate, a Certification from a Registered Surveyor must be submitted to Council, stating that all works (above and below ground) are contained within the site's land boundary.

**121. Supervising Engineer Final Certificate** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

**122. Post-Construction Dilapidation Report** – To ensure Council's infrastructures are adequately protected a post-construction dilapidation report on the existing public infrastructure in the vicinity of the completed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

- (a) Road pavement,
- (b) Kerb and gutter,
- (c) Footpath,
- (d) Drainage pits,
- (e) Traffic signs, and
- (f) Any other relevant infrastructure.

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to issue of the Occupation Certificate. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Compliance Certificate for External Works and Public Infrastructure Restoration.

All fees and charges associated with the review of the report shall be in accordance with Council's Schedule of Fees and Charges, and shall be paid at the time that the Dilapidation Report is submitted.

**123. Final Inspection – Assets Handover** - For the purpose of the handover of the public infrastructure assets to Council, a final inspection shall be conducted in conjunction with Council's Engineer from City Works Directorate following the completion of the external works. Defects found at such inspection shall be

**ITEM 1 (continued)**

**ATTACHMENT 1**

rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works. Additional inspections, if required, shall be subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

A minimum 48 hours' notice will be required when booking for the final inspection.

**124. Compliance Certificate – External Works and Public Infrastructure Restoration** – Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council's City Works Directorate confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.

**125. Letterboxes and street/house numbering display.** All letterboxes are to be designed and constructed in accordance with Australia Post requirements and the house/unit numbering displayed shall be in accordance with the official property addressing allocated by Council's Land Information Section. The display of the street address shall be of a sufficient size and clarity to be easily visible from the street. Where a development contains multiple properties, signage is required to be clearly displayed on all unit door entrances. Directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout a development is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.

**126. Garbage Service.** Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any Occupation Certificate. Council does not support the use of private contractors for the collection of domestic waste. All domestic waste will be collected by the Council waste collection contractor.

**127. Waste Collection.** An authorised Council traffic engineer or waste officer is to ensure that the development can be accessed and serviced by the nominated waste collection vehicle in accordance with the Waste Management plan providing safe easy access to service the waste containers. Approval must be provided by City of Ryde Council prior to the issue of the Occupation Certificate.

**128. CCTV Cameras.** CCTV cameras will be required to be installed throughout the site. The cameras should include the foyer area to the buildings including the area around the mail boxes. The cameras should also monitor the 50 metre vicinity outside the building including, but not limited to, the footpath area in front of the premises. CCTV cameras should also cover any communal areas, lifts,

**ITEM 1 (continued)**

**ATTACHMENT 1**

public spaces, pedestrian link and the basement car parks, including the entry and exit points to the car park. Recordings should be made twenty four (24) hours a day seven (7) days a week.

As a minimum, CCTV cameras at entry and exit points to the premises MUST record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras MUST record footage of a nature and quality in which it can be used to recognise a person recorded by the camera. The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed.

If requested by police, the applicant is to archive any recording until such time as they are no longer required. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.

The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel. If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

129. **Car parking security.** Vehicular entry to residential parking and visitor's parking areas is to be through a secured roller shutter with an intercom system for visitor's access. The doors are to be controlled by locksets such as remote or card operating electronic lock sets. The phasing of the roller door needs to minimise the opportunity for unauthorised pedestrian access after a vehicle enters/exits the car park. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

130. **Graffiti.** All surfaces on the street level that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti. A maintenance policy should be established for graffiti to be painted over within two a week of the graffiti.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

131. **Security.** To enhance the physical security of doors, all glass doors are to be laminated and the main entry/exit doors to individual units on the ground floor, including balcony doors and fire exit doors to the development are to be fitted with a single cylinder lockset (Australian and New Zealand Standard - Lock Sets), which comply with the Building Code of Australia. Windows to individual units on the ground floor should also be fitted with key operated locksets

**ITEM 1 (continued)**

**ATTACHMENT 1**

(Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

132. **Intercom System.** Intercom facilities should be incorporated into these entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development. An auxiliary lock set should also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.

133. **Design Verification.** Prior to an **Occupation Certificate** being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with a Design Verification from a qualified designer. The statement must include verification from a qualified designer that the residential flat development achieves the design quality of the development shown on plans and specifications in respect to any Construction Certificate issued, having regard to the design quality principles set out in Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the *Environmental Planning and Assessment Regulations 2000*.

**OPERATIONAL CONDITIONS**

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

134. **Screening of the traffic light.** The traffic signal located at the front of the driveway is to be suitably screened so as to not be visually prominent within the front setback however the screening/landscaping is not to block visibility of the signal for drivers entering the car park. Regular maintenance of the landscaping is required to ensure that the signal is visible to drivers at all times.

135. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;

- 6 residential spaces,
- 2 visitor spaces.

Tandem parking spaces are to be allocated to one unit.

136. **Covered Ramp Area.** Residents and visitors are not permitted within the covered ramp area on Level 1 with the access for maintenance purposes only. The door/access is to be locked at all time and a sign is to be placed on the door advising of such.



**ITEM 1 (continued)**

**ATTACHMENT 1**

137. **Balconies.** No clothes drying on balconies in the public view are permitted.

138. **Waste Collection.** Council does not support the use of private contractors for the collection of domestic waste. All domestic waste will be collected by the Council waste collection contractor.

139. **Signs within the garbage area.** Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage.

140. **Storage and disposal of wastes.** All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner. Waste storage areas must be maintained in a clean and tidy condition at all times.

141. **Waste containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste. Garbage and recycling bins must always be stored on-site between collections.

142. **Recyclable wastes.** Wastes for recycling must be stored in separate bins or containers and be transported to a facility where the wastes will be recycled or re-used.

143. **Transfer of waste containers to emptying point.** Staff or contractors must be employed to take the waste containers from the garbage room or waste storage area to the container emptying point for servicing and to return the containers to the garbage room or waste storage area after servicing.

All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access”

Staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing.

144. **Maintenance of waste storage areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.

145. **Offensive noise** - The use of the premises must not cause the emission of ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997*.

146. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

**ITEM 1 (continued)**

**ATTACHMENT 1**

(a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).

(b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.

(c) The transmission of vibration to any place of different occupancy.

147. **Access to Communal Open Space.** The roof top communal open space is not to be used between the hours of 10pm to 7am.

148. **Shading on the roof terrace.** To ensure that the common open space is usable, the shade sail on the roof terrace is to be provided in perpetuity.

**ITEM 1 (continued)**

**ATTACHMENT 2**



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**Amended Clause 4.6 Exceptions to Development Standards  
Clause 4.3 Height of Buildings - Ryde Local Environmental Plan 2014**

**Proposed Demolition of the Existing Structures and Construction of a 4 Storey  
Residential Flat Building - No. 19 Wattle Street, West Ryde**

**1.0 Introduction**

This Amended Clause 4.6 Exceptions to Development Standards request has been prepared by Andrew Robinson Planning Services Pty Ltd on behalf of MAINconstruct Pty Ltd to accompany a development application for a proposed 4 residential flat building at No. 19 Wattle Street, West Ryde.

The Amended Clause 4.6 Exceptions to Development Standards request relates to the height of buildings principal development standard prescribed under subclause 4.3(2) of *Ryde Local Environmental Plan 2014*. Subclause 4.3(2) states:

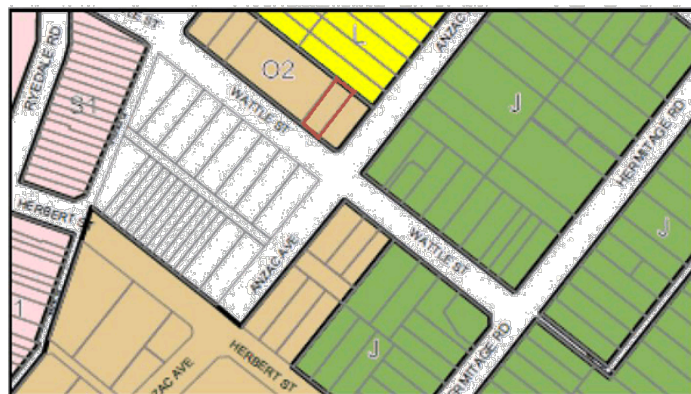
*The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

Clause 4.3(2) of Ryde LEP 2014 is a development standard that can be varied by a written request under Clause 4.6 of the LEP.

The Height of Buildings Map indicates a maximum building height of 15.5m applies to the site (refer to **Figure 1**).

When measured in accordance with the definition for building height under the LEP, the proposed development, as shown on the Architectural Plans prepared by Architecture Design Studio (NSW) Pty Ltd has a maximum height of 16.34m. This exceeds the 15.5m statutory maximum building height by 840mm.

**Figure 1:** Extract from Ryde LEP 2014 Height of Buildings Map showing the 15.5m height limit for the site (O2 = 15.5m).



Andrew Robinson Planning Services Pty Ltd  
ABN: 86 120 626 566

**ITEM 1 (continued)**

**ATTACHMENT 2**

19 Wattle Street, West Ryde – Amended Clause 4.6 Exception Request

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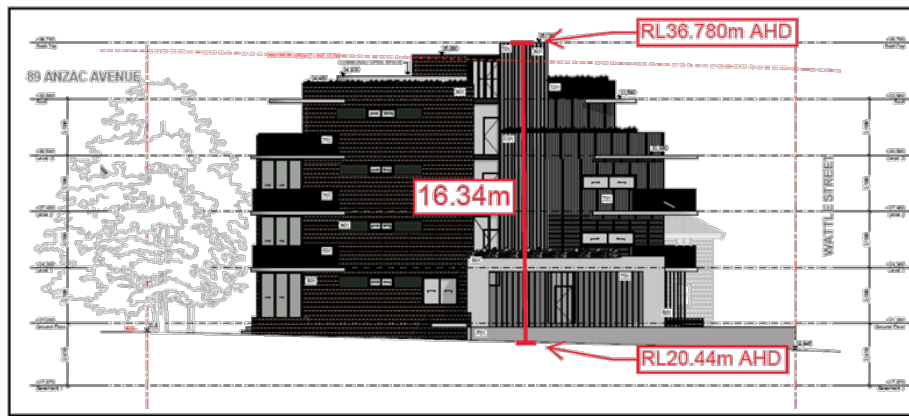
The following definition under *Ryde Local Environmental Plan 2014* is important in considering the proposed variation:

**building height** (or height of building) means:

- (a) in relation the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building – the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Having regard to the above definition, the non-compliance to the height of buildings principal development standard relates to the lift overrun (refer to **Figure 2**), where the difference between the lift overrun (RL36.780m) and the ground level immediately below (RL20.44m) results in a maximum building height of 16.34m.

**Figure 2:** Extract from architectural drawing No. A300 (Rev 03) – North Elevation, showing the extent of the non-compliance relative to the 15.5m statutory height limit.



As noted above, the corresponding ground level RL on the Survey Plan that accompanies the application indicates a lowest RL of 20.44m at the location of the lift overrun where the greatest breach occurs. This translates to a maximum building height of 16.34m, exceeding the 15.5m height standard by 840mm. This represents a variation of 5.4% above the building height standard.

While the maximum breach occurs between the top of the lift overrun and the ground level immediately below, the fire stair enclosure also exceeds the statutory height limit between 80mm (northern end) and 280mm (southern end). Both the lift and fire stairs provide access to the rooftop communal open space.

**2.0 The Effect of Clause 4.6 Exceptions to Development Standards**

Clause 4.6 of *Ryde Local Environmental Plan 2014* states (in part):

- (1) The objectives of this clause are as follows:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

**ITEM 1 (continued)**

**ATTACHMENT 2**

19 Wattle Street, West Ryde – Amended Clause 4.6 Exception Request

September 2021

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46
- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')
- *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118
- *RebelMH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130
- *Nakhoul v Canterbury Bankstown* [2020] NSWLEC 1320

In summary, the principles arising from the above matters are:

- (i) That the relevant objectives are those stated in the controls not unidentified underlying



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objectives at [57] in *Four2Five* No. 1;

- (ii) That the environmental planning grounds must be particular to the circumstances of the proposed development and/or the site at [60] in *Four2Five* No. 1; and
- (iii) The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant. However, in order to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a), you need something more than way 1 in *Wehbe*, because that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition.
- (iv) Preston CJ in *Initial Action* held that for there to be power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the Court, in exercising the functions of the consent authority, be satisfied that the written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) and adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)). The Court must also be satisfied that the proposed development will be consistent with the objectives of the zone and with the objectives of the standard in question, which is the measure by which the development is said to be in the public interest (cl 4.6(4)(a)(ii)).
- (v) In *RebelMH* the Court, in exercising the functions of the consent authority, must “in fact” be satisfied of the above matters. The state of satisfaction that compliance is “unreasonable or unnecessary” and that there are “sufficient environmental planning grounds” to justify the contravention must be reached only by reference to the cl 4.6 request. The evidence in the proceedings cannot supplement what is in the request, although the evidence may assist in understanding the request and in considering its adequacy. On the other hand, the state of satisfaction that the proposed development is consistent with the relevant objectives, and therefore in the public interest, can be reached by considering the evidence before the Court and is not limited to what is contained in the cl 4.6 request.
- (vi) Lastly, with respect to the public interest and question of precedent, in *Nakhoul*, Walsh C refers to the guidance offered by Justice Lloyd in *Goldin v Minister for Transport Administering the Ports Corporatisation and Waterways Management Act 1995 (2002)* 121 LGERA 101; [2002] NSWLEC 75 and held that the initial test under *Goldin* goes to whether or not a proposal is objectionable in itself and, if a proposal is not objectionable in itself, then the second test, concerned with the potential for setting a precedent, should not be a consideration.

In relation to (iii) above, Method 1 in *Wehbe* requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

Subsequently, *Four2Five*, provided a necessity to demonstrate something *more* than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice.

With regards to *Initial Action*, it is reaffirmed that the test is that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds are established to justify the contravening of the standard. In doing so, the Court must be satisfied that consistency with the objectives of the zone are achieved.

*RebelMH* affirms that the Court must be satisfied of the above matters which are ordinarily dealt with in the Clause 4.6 but can be supplemented by other evidence tendered in the proceedings.

Finally, with respect to the public interest and question of precedent, the two tests under *Nakhoul* are firstly whether or not a proposal is objectionable in itself and secondly, what is “the probability that there will be further applications of a like kind”. *Nakhoul* affirms that the potential for setting a precedent,

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should not be a consideration where a proposal meets the initial test that a proposal is not objectionable in itself.

**3.0 Justification for Variation**

***What is the context of the variation?***

No. 19 Wattle Street is located in an established residential neighbourhood that exhibits a variety of built form in the visual catchment surrounding the site. The site is located on the northern side of Wattle Street in West Ryde, to the east of the West Ryde Town Centre. To the north and north-west the site is primarily surrounded by 3 and 4 storey residential flat buildings. Further to the south-west is West Ryde Railway Station and the West Ryde town centre that is located on both sides of the railway line. To the east and south-east there are single and two storey dwelling houses, interspersed with a number of multi-dwelling housing developments. As such, the surrounding residential built form is a somewhat eclectic mix of housing types and densities. However, it is noted that the various residential flat buildings in the locality are generally long and slender buildings on allotment widths that vary between approximately 12m -18m.

The proposed building will be of a form and scale that is compatible with the existing, but more importantly, the desired future character, presenting an attractive facade to Wattle Street and making a positive contribution to the streetscape character and urban form and scale that is similar to the surrounding residential flat buildings. The noticeable difference is that the older style residential flat buildings do not contain lifts and are 'walk-up' buildings, with lifts being introduced to this scale of building much later than when they were constructed. The use of pitched tile roofs is a common element in the streetscape. However, the proposed building has a flat roof and provides a useable area of communal open space on top of the building, where solar access will be maximised. Although the utilisation of a pitched tile roof would be consistent with the predominant character, flat roof forms are now more commonly used in contemporary architecture and are more likely to be used if surrounding sites were to be redeveloped. It is noted that the recently built residential flat building to the north-west of the site at No. 46 Forster Street has a flat roof form. As such, the use of a flat roof is considered to be a better planning outcome where only the lift overrun breach the height standard but provide equitable access to the roof top communal facilities for the enjoyment of residents and their guests.

In addition, Council has advised that the site is affected by overland flows associated with the 1% AEP and as such, a minimum habitable floor level that provides a 500mm freeboard above the flood planning level must be provided. As such, the building has had to be raised to achieve the minimum habitable floor level.

***Strict Compliance is unreasonable or unnecessary in the circumstances of the case.***

As described earlier, the lift overrun exceeds the 15.5m maximum building height by a maximum of 840mm, representing a variation of 5.4% above the development standard.

As demonstrated in the NSW LEC decisions in *Micaul Holdings Pty Limited v Randwick City Council* and *Moskovich v Waverley Council* there should be no artificial conservatism about the use of Clause 4.6 based on the numerical extent of the variation being sought, given that the purpose of Clause 4.6 is to allow flexibility and to achieve better outcomes for a site by allowing developments to exceed development standards where there are justifiable circumstances.

An important finding in *Micaul Holdings Pty Limited* was that while the judgment did not directly overturn the *Four2Five v Ashfield* decision, the Chief Judge indicated that one of the obligations of a consent authority is to be satisfied that the applicant's written request has adequately addressed the matters in Clause 4.6(3), namely.....*that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.....and that there are sufficient environmental planning grounds to justify contravening the development standard.*

Therefore, compliance with the development standard is unreasonable and unnecessary where, in the particular circumstances of the case, there are sufficient environmental planning grounds to justify the

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proposed non-compliance.

The objectives of the height of buildings principal development standard are:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.
- (d) to minimise the impact of development on the amenity of surrounding properties.
- (e) to emphasise road frontages along road corridors.

It is considered that despite the non-compliance, the proposed development achieves the objectives of the height of buildings development standard for the following reasons:

- the proposed scale and massing of the building is consistent with the existing character of the locality;
- the extent of the non-compliance does not seek to increase the number of storeys or density of the development but allows for equitable access to the roof top communal open space. As such, there is no tangible nexus between the height variation and the overall land use intensity;
- the area of non-compliance will not result in any unreasonable adverse impacts on the adjoining land uses with respect to overshadowing, loss of privacy, inappropriate scale etc;
- Despite the breach to the building height standard, the building will make a positive contribution to the streetscape character and visual amenity of the area. The non-compliant height does not contribute to an unreasonable visual impact or a loss of privacy to adjoining properties. Further, although more modern in its architecture, it is considered that the proposed building will be compatible with the existing older style architecture and likely future streetscape character and will make a positive contribution to the streetscape and visual amenity of the area;
- As noted in the planning principle adopted in *Project Venture Developments v Pittwater Council [2005] NSW LEC 191*, compatibility is .....different from sameness. Further, that it is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve. Likewise, while compatibility in architectural style and materiality is certainly one aspect of making a subjective assessment as to the compatibility of a building with the character of an area, it is considered that the relationship of a particular built form to surrounding space created by building height, setbacks and landscaping are also significant contributors to urban character. In this regard, it is considered that despite having a more modern architectural style and appearance, the proposed building will make a positive contribution to the streetscape and visual amenity through a built form and appearance that is in harmony with the scale and density of surrounding development.

In consideration of the above, Council's attention is also drawn to the Department of Planning and Environment's publication "Varying development standards: A Guide" (August 2011), which outlines the matters that must be considered when varying a development standard.

The Guide has essentially adopted the 5 point test for consideration set out by the Land & Environment Court in *Wehbe v Pittwater Council (2001) NSW LEC 827*, specifically that there are five different ways in which compliance with a development standard can be considered unreasonable or unnecessary, namely:

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- *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

**Comment:** As discussed above, the proposal is considered to be consistent with the objectives of the building height standard, notwithstanding the numerical variation.

- *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

**Comment:** The objectives of the building height standard remain relevant and the proposal is consistent with, or at least is not antipathetic to the objectives of the building height standard, notwithstanding the numerical variation.

- *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

**Comment:** The proposal is consistent with the objectives of the building height standard, notwithstanding the numerical variation, and it would not defeat the purpose of the standard.

- *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

**Comment:** There is no evidence to indicate that the building height standard has been abandoned by Council through its actions in granting consent for other buildings in the vicinity that depart from the standard.

- *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

**Comment:** The proposed residential flat building is a permissible land use and the zoning of the site is considered to be appropriate in this location and in the context of the surrounding land uses and built form.

In light of the above, it has been demonstrated that the first test under the Wehbe method has been met, such that the requirement to strictly adhere to the numerical development standard for building height is considered to be unreasonable and unnecessary in this instance.

***There are sufficient environmental planning grounds to justify contravening the development standard.***

Based on the discussion above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

Flood Protection

- Flood advice provided by Ryde City Council in October 2018, identified the site as being affected by overland flows associated with the 1% AEP (1 in 100 year flood event). As such, in order to minimise the risks associated with potential inundation, Council policy requires the minimum habitable floor level to be set at 500mm higher than the 1% AEP flood level (1 in 100 year event) of RL20.77m AHD. As such, the minimum habitable floor level must be set at a minimum of RL21.27m AHD.
- The site has a gradual slope in south-easterly direction, but based on the existing ground levels, means that the minimum habitable floor level of RL21.27m is between approximately 670mm and 1.3m higher than the existing site levels. Therefore, the building has had to be raised approximately 1m higher than would have been necessary if the site had not been



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subject to overland flows and the risk of inundation.

- Notwithstanding, the raising of the building height in order to achieve the nominated minimum habitable floor level represents a better planning outcome as it will provide residents (in particular, those residing on the ground floor) with effective protection from potential flooding.

Rooftop Communal Open Space

- Although protruding beyond the statutory height limit, the lift and stairs facilitate equitable access to the rooftop communal open space. As a small site that is unable to achieve the ADG design criteria of communal open space that has a minimum area equal to 25% of the site area and that will achieve a minimum of 2 hours solar access to at least 50% of its area between 9am and 3pm in mid-winter, Objective 3D-1 of the ADG encourages the provision of communal open space elsewhere, such as a landscaped roof top terrace. In order to provide equitable access to this communal area, the lift and fire stairs must continue to the roof terrace level and therefore, will generally be the highest elements of an RFB or mixed use building.
- The inability to achieve amalgamation with the adjoining site due to its ownership by the NSW Land & Housing Corporation and the inability of the LAHC to enter into private negotiations with respect to the sale of LAHC properties means that the site is not able to provide the requisite communal open space at ground level.
- However, the provision of roof top communal open space provides a consolidated and useable area that will not impact on the amenity of the residents and will receive high levels of solar access throughout the year, including mid-winter. This is considered to be a better planning outcome and will provide for a much higher amenity for the enjoyment of the residents and their guests

Built Form & Context

- Despite the proposed building exceeding the height of buildings principal development standard, the overall bulk and scale of the building is considered to be acceptable in terms of its scale and built form and the relationship of the building to the adjoining and surrounding residential development.
- The additional height of the building does not constitute an additional storey and maintains a building of a scale and form that is appropriate for the location, providing visual interest and a varied building profile, despite having been raised in order to achieve the required minimum habitable floor level.
- As the breach is restricted to the lift overrun and fire stair enclosure, the additional height will not cause the scale of the building to be inconsistent with the surrounding and nearby residential flat buildings.
- The proposal is consistent with the aims and objectives of *Ryde Local Environmental Plan 2014*; and
- The proposal is generally consistent with the objects of the *Environmental Planning & Assessment Act 1979*, in particular, the orderly and economic use and development of land and ecologically sustainable development.

***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.***

The Table below demonstrates that the proposed development will be in the public interest because it will be consistent with both the height of buildings principal development standard objectives and the R4 High Density Residential zone objectives of the LEP.



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LEP Clause	Objective	Proposal
<b>Clause 4.3 Height of Buildings</b>	a) <i>To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.</i>	The predominant subdivision pattern presents as narrow (generally 12.19m) frontages, with long slender buildings. The proportions of the building and the relationship of the site frontage to the street are considered to be in keeping with the existing character for the locality.
	b) <i>To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.</i>	The non-compliant height of the lift overrun and fire stair enclosure will not result in any adverse impacts on the adjoining land uses with respect to overshadowing. Further, it is considered that the proposed building will improve the appearance of the area. Despite the non-compliance, the scale and intensity of the building is consistent with the intended redevelopment potential of the land and the existing and desired future character of the locality.
	c) <i>To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.</i>	As noted above, the predominant subdivision pattern presents as narrow (generally 12.19m) frontages. The consolidation of the site with the adjoining site has not been possible. Notwithstanding, this adjoining site will not be isolated and the redevelopment of this site for a residential flat building in a location with excellent access to public transport, shops and services at West Ryde Station and commercial centre and on Victoria Road is consistent with this objective.
	d) <i>To minimise the impact of development on the amenity of surrounding properties.</i>	As noted above, the non-compliant height of the lift overrun and fire stair enclosure will not result in any adverse impacts on the adjoining land uses with respect to overshadowing or a loss of privacy.
	e) <i>To emphasise road frontages along road corridors.</i>	Although not a major road corridor, the proposed development will provide for suitable emphasis of the road corridor, providing for activation and visual interest.
<b>R4 High Density Residential Zoning Objectives</b>	<i>To provide for the housing needs of the community within a high density residential environment.</i>	The proposed development will provide additional residential accommodation and housing choice in a location with good access to public transport, shops, facilities and recreational opportunities.
	<i>To provide a variety of housing types within a high density residential environment.</i>	As noted above, the proposed residential flat building will offer additional housing supply and choice in a high density residential form, commensurate with the existing residential flat development in the surrounding area.

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	<p><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></p>	<p>Noted. The proposed residential land use provides a form of residential accommodation that is located in proximity to shops and facilities that will provide for the day to day needs of residents.</p>
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**4.0 Non-compliance does not hinder the attainment of the Objects of the Environmental Planning and Assessment Act 1979**

The Wehbe decision identifies that in assessing a variation to a development standard, consideration must be given to (the former) Objects (a)(i) and (a)(ii) in Section 5 of the *Environmental Planning and Assessment Act 1979* is necessary. These are:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

The proposed variation to the building height standard will not contravene either of these Objects. The proper management of the existing urban environment in order to achieve better social and community outcomes, as well as the orderly and economic use and development of land, will be realised through the provision of high quality residential accommodation in the form of a residential flat building, in a location with good access to public transport options and in proximity to shops, services and recreational facilities and educational establishments.

**5.0 Secretary’s Concurrence**

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained prior to granting consent to a development that contravenes a development standard. In accordance with the Planning Circular (PS 20-002) issued on 5 May 2020, as the proposal contravenes a numerical standard by less than 10%, the City of Ryde Council can assume the Secretary’s concurrence.

Notwithstanding, provided below is a discussion on the matters under subclause 4.6(5) that the Secretary must consider in deciding whether to grant concurrence:

***Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.***

The variation to the height of buildings principal development standard under *Ryde Local Environmental Plan 2014* will not give rise to any environmental planning matter which could be deemed to have either State or Regional significance. The variation to the development standard being sought will not have any effects outside the immediate area of the site.

***The public benefit of maintaining the development standard.***

No substantive public benefit would be realised by maintaining the development standard. Reducing the height of the building to strictly comply with the 15.5m height limit would not substantially alter the overall design approach or outcome for the site. Further, it would not necessarily realise an improvement to the relationship between the site, the adjoining buildings and the surrounding area. However, it would remove the ability to provide equitable access to the roof top communal open space, the location of which is considered to be a better planning outcome in terms of resident amenity than would be provided by ground level communal open space.

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**Any other matters required to be taken into consideration by the Secretary before granting concurrence.**

Despite exceeding the statutory maximum building height, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a residential flat building that will positively contribute to the achievement of the objectives of *Ryde Local Environmental Plan 2014*.

**5.0 Conclusion**

Based on the discussion provided above, it can be concluded that:

- strict compliance with the height of buildings principal development standard under *Ryde Local Environmental Plan 2014* is unreasonable or unnecessary in the circumstances of the case where:
  - the non-compliance does not seek to increase the number of storeys or density of the development, but rather, provides for the minimum habitable floor level with a suitable freeboard above the identified flood planning level, as nominated by Council. Achieving the minimum habitable floor level has necessitated the building to be raised approximately 1m higher than would have been necessary if the site was not subject to overland flows and the potential risk of inundation. As such, there is no tangible nexus between the height variation and the overall land use intensity, particularly given that the proposed floor space ratio is well below the allowable maximum.
  - the lift access to the roof top communal open space provides equitable access and is considered to be a better planning outcome in terms of resident amenity than would be provided by ground level communal open space.
  - the extent of the non-compliance will not result in any unreasonable adverse impacts on the adjoining land uses with respect to overshadowing, loss of privacy, inappropriate scale etc.
  - the proposed design solution is considered to represent an appropriate development outcome for the site, displaying a high quality design, whilst ensuring that a high standard of amenity for future residents will be achieved.
- there are sufficient environmental planning grounds having regard to the Court matters *Four2Five v Ashfield Council* and *Wehbe v Pittwater Council* to justify the contravention to the development standard as the objectives of the building height standard are still met, despite the non-compliance;
- the building has been designed to a high quality and the amenity for future residents will be to a high standard;
- the non-compliance does not directly result in any adverse environmental impacts in terms of the building being out of context with the anticipated bulk and scale of development in the locality;
- the proposal will provide additional high quality housing choice in the form of a residential flat building, in keeping with the anticipated desired future character of the area; and
- the scale and nature of the non-compliance does not give rise to any matter of State or Regional significance, nor does it adversely affect the public interest.

Having regard to the circumstances of this case where:

- the overall style, scale and built form of the building is commensurate with the existing and likely future 'built environment' and anticipated desired character of the area;

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- the proposal is consistent with the aims and objectives of *Ryde Local Environmental Plan 2014*; and
- the proposal is generally consistent with the objects of the *Environmental Planning & Assessment Act 1979*, in particular, the orderly and economic use and development of land and ecologically sustainable development,

it is submitted that this Amended Clause 4.6 Exceptions to Development Standards request is well founded. As such, strict compliance with the height of buildings principal development standard prescribed in Clause 4.3 of *Ryde Local Environmental Plan 2014* is unreasonable and unnecessary having regard to the circumstances of the case.

Accordingly, having regard to the assessment and justification contained in this Amended Clause 4.6 Exceptions to Development Standards submission, it is requested that the proposed variation and the development in its proposed form be supported.

Dated: 29 September 2021

**Andrew Robinson Planning Services Pty Ltd**



Andrew Robinson MPIA  
Director